SENATE—*Wednesday, July 28, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

The PRESIDING OFFICER. The prayer will be offered by Rabbi Shmuel M. Butman, director, Lubavitch Youth Organization, Brooklyn, NY.

PRAYER

Rabbi Shmuel M. Butman, director, Lubavitch Youth Organization, Brooklyn, NY, offered the following prayer:

Let us pray:

Dear God, this House has always been committed to the principles of freedom and democracy, enacting laws to benefit all of society. This is a vital step toward the era of universal peace, foretold by the prophets for the revered leader of world Jewry. Rabbi Menachem M. Schneerson, the Luba- vitcher Rebbe, Shlita—may he have an immediate and complete recovery—has announced good news for the world: that we are living in a special time, the dawn of the Messianic era.

The Rebbe has told us that you, dear God, have already started this process. One sign is the exodus of so many Jews to the Holy Land after decades of persecution, beginning the ingathering of the exiles, an essential part of the Messianic process.

Another sign, dear God, is the disarmament agreements among the great nations of the world, starting the process foretold by Isaiah, the prophet of the Messianic era: "They shall beat their swords into plows * * * nation shall not lift up sword against nation and they will no longer learn war." We ask You, dear God, to give us the strength to accelerate this process, and the inspiration to advance daily in good deeds.

In this spirit, I take this opportunity to place a dollar bill in this pushke. On this dollar bill is inscribed, "In God we trust." This is called a charity box, a pushke. This fulfills our obligation, not only toward those close to us, but also toward our neighbors and to society in general. Help us, dear God, to bring to all citizens of the United States and all around the world, this message of charity and how it prepares the world for a brighter future in the Messianic era.

We pray, dear God, that You continue to bestow Your bounty upon all the Members of this House, the U.S. Senate, and may they have the merit to experience a "year of great miracles," a "year of great miracles" in their communal, national, and international endeavors, as well as in their private lives.

And let us say, amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Alaska [Mr. MURKOWSKI] is recognized to speak for up to 30 minutes.

STATE OF ALASKA VERSUS UNITED STATES: BROKEN PROMISES OF STATEHOOD

Mr. MURKOWSKI. I thank the Chair and wish the Chair a good morning.

Mr. President, I rise to introduce into the RECORD a lawsuit filed by the State of Alaska pending before the U.S. Court of Federal Claims. Late last week our Governor, Gov. Walter Hickel, announced the State of Alaska has filed suit in the U.S. Federal Court of Claims in Washington, DC, charging that the Federal Government's violation of the Alaska statehood compact has cost our State more than $29 billion.

I rise this morning to support the efforts of our Governor and the people of Alaska in suing the Federal Government for compensation denied to Alaska and Alaskans under the 1959 Statehood Act. A conservative estimate of the lost value of revenues to our State, taking into account only known resources that cannot be developed because of Federal regulations, is in the area of at least $29 billion.

I assure you, Mr. President, the State of Alaska is serious as to the validity of its claims. One only need go back to 1959 and examine the contract made in the Statehood Act, where the U.S. Government made a promise to the people of Alaska.

First in that promise was to grant 103 million acres of the unappropriated Federal lands to the State of Alaska for the use and enjoyment of Alaskans.

Second was the promise to allow Alaskans to keep 90 percent of the money earned from the extraction of minerals on all other Federal lands not withdrawn from mineral development at the time of statehood. These funds were to form the economic base upon which Alaska would meet its State responsibilities and development needs.

The State of Alaska, in turn, made an equal commitment. It promised to abide by the unique financial, social, and political duties that the Federal Government imposed on all States.

I think it is important to go over the purpose of the land grant and the distribution of 90 percent of the revenues to the State of Alaska, and 10 percent to be retained by the Federal Government.

The tax base in Alaska was far too small to support all government needs. There were too few people, far less than 300,000; too little State and private land ownership in 1959—99 percent of Alaska was owned by the Federal Government.

Third, the Statehood Act compensated specifically for these shortfalls.

The 1959 compact expanded the State's land base by nearly 103 million acres. It provided specifically for the State to be able to select 103 million acres and be compensated for lack of land and people by granting the State 90 percent of all mineral sales for Federal lands, in part because Alaska would not participate in the reclamation fund which was shared by all other Western States. That is the same situation as we are faced with today. Alaska does not share in that reclamation fund.

The remaining 10 percent of revenue generated from mineral sales would

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

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compensate the Federal Government for the cost of administrating the lands, and the transfer.

In the 34 years since statehood we have found that the U.S. Government has broken its promise and it has breached its contract to the people of Alaska. It specifically violated the Statehood Act, and that is the basis for the suit.

The Statehood Act is a sacred contract between the U.S. Government and the people of Alaska. It is a contract that cannot be unilaterally altered, yet that is exactly what the Federal Government has tried to do. The Statehood Act was ratified specifically by the people of Alaska. In other words, it was accepted under the terms and conditions that were offered. It was a binding, solemn contract, a contract that can only be broken or altered with mutual consent—consent of both parties—and that was not the case. The Federal Government did not allow the State of Alaska to be heard relative to any of the changes that have been made as a consequence of Federal interpretation of that Act.

Mr. President, that is the basis for the suit. A contract cannot be unilaterally altered by one party. We have seen excessive land withdrawals and diminution of the 90–10 revenue share which specifically violates the terms of the statehood contract.

Since statehood, the Federal Government has prohibited mining on more than 100 million acres of Federal land. Specific examples would be in the Fortymile national park, West Chichagof-Yakobi Wilderness, the Yukon Charley River National Preserve, and the Arctic National Wildlife Refuge.

In 1980, the Alaska Lands Act alone created 117 million acres of new Federal reservations, parks, wilderness, and national monuments, all removed from mineral development and reducing the value of the statehood grant. The State contends that this denies revenues that the people of Alaska bargained for in accepting the statehood compact. Congress breached the covenant of good faith and fair dealing by withdrawing critical Federal lands from mineral leasing. It breached its promise to Alaskans, promises relied upon when the territorial citizens ratified the statehood compact back in 1958.

Every contract imposes a duty of good faith and fair dealing. Alaskans relied on promises of the Statehood Act when they ratified that compact. Withdrawing critical lands from mineral leasing is a taking of Alaska's interest in revenues derived from those lands and it violates the fifth amendment of the Constitution of the United States. The pertinent part of that fifth amendment, Mr. President, is, and I will quote it, "* * * nor shall private property be taken for public use without just compensation."

By law, Alaska has a property interest in revenues from minerals on lands owned by the Federal Government which the Federal Government has withdrawn from development. Recent actions continue disregard for Federal statehood promises made to the people of Alaska. The Statehood Act designates 90 percent of the revenues from mineral extraction to go to the State of Alaska and 10 percent to go to the Federal Government for compensation of administration of Federal lands.

Since 1990, several appropriations bills have directed the U.S. Minerals Management Service to deduct administration costs from onshore mineral leasing receipts prior to calculating the 90–10 split. It is a violation of the Statehood Act to withhold any mineral leasing receipts from the 90–10 split.

As of 1993, Alaska has lost $1.7 million that it is entitled to under this revenue sharing proposal of 90–10, as evidenced under the Statehood Act.

The history of Federal withdrawal of land development, I think, needs a brief review. Alaska is a young State. We are only 34 years old. When we entered the Union in 1959, people across the State were enthusiastic about Federal promises and pledges to bring Alaska into the Union on an equal footing with the other States and to ensure that the citizens of the new State would be able to use its vast resources to become economically self-sufficient.

However, Federal legislation passed in the 1970's and 1980's quickly reversed the course set by statehood and the promises made to the people of Alaska by the Federal Government. Only longtime Alaskans realize that over the course of 30 years, the Federal Government has systematically denied Alaskans the use of their land until very little is left.

First, we had the Alaska Native Claims Settlement Act. Oil at Prudhoe Bay, some will recall, could not be developed without a pipeline, and a pipeline could not be built until first settling the claims, the aboriginal claims of Alaska's Native people.

The 1971 Alaska Native Claims Settlement Act settled all aboriginal claims to land, fish and wildlife resources in exchange for approximately 44 million acres of land and $1 billion. This was allocated between 12 Alaskan and 1 outside regional Native corporation.

State land selections were halted while native land selections were made. This limited land available from which the State could choose its lands and reduce the Federal lands available for mineral development from which Alaska would be entitled to its royalties. In general, the transfer of lands and resources to the native corporations and out from under any Federal stewardship has provided the tools of economic self-determination among Alaska's Native people that are certainly lacking in other States across the West, and we are very proud of that selection and that provision by the native people of Alaska.

But in 1971, ANCSA was a case of good taking with the bad; that is, the Alaska Native Claims Settlement Act, and the bad was mandated, including a study to create new conservation units and new wilderness in Alaska which led to a land freeze in State land selections under the Antiquities Act and the untimely passage of the Alaska Lands Act in 1980.

So here we have a situation where, again, the State's land selection process was thwarted and availability was limited.

We had the Alaska National Interest Lands Conservation Act, or ANILCA. While Alaska statehood promised 103 million acres of land selections, before many of the most important selections could be made, they were put on hold, first by ANCSA, the Antiquities Act to follow, the land freeze, then ANILCA. Alaskans experienced "you get what is left" theory of land selections. No other State has had its land development affected in such an arbitrary way.

So by the time the land freeze was over and we were well into the eighties, by the time ANILCA had passed, Alaska was left with—and these are staggering figures, Mr. President—Alaska was left with a situation where, within our State, 51 million acres of National Park Service land was put into existence, which amounts to 70 percent of all National Park Service land and amounts to 15 percent of the total land mass in Alaska.

Moving on, 76 million acres of U.S. Fish and Wildlife refuge lands was created. Eighty-five percent of all the national refuge system in the United States is in our State, and that alone makes up 21 percent of the land mass in our State of Alaska.

Moving to wilderness, 57 million acres of wilderness were created. That is 60 percent of all the national wilderness preservation system, and it constitutes 16 percent of the land in our State.

And BLM land, 90 million acres were established; that is 34 percent of all national BLM lands in our State. That makes up 25 percent of the land mass of our State.

Finally, national forest land, 22 million acres were established. That is 11 percent of all national forest systems and 7 percent of the land mass.

When you add that up, that leaves nearly 70 percent of our State of Alaska under the Federal domain in various Federal agencies. That leaves 103 million acres for the State, 44 million acres for the native people of Alaska, or 12 percent of the State.

What do we have in private hands? We have 5 million acres of land held by

private individuals, less than 2 percent of the State of Alaska.

So 34 years later, that is the land pattern that has emerged out of the Statehood Act which, again, was a solemn promise that the State would have unlimited access to the selection of Federal lands in the State of Alaska.

The choke hold on economic development in Alaska goes beyond the size of the Federal land designations. Many conservation units were designated, in part, to block access to lands in State and private hands. Without access, you simply cannot have development. Limited access to development lands have stifled development in our State. Much private and State land is locked up like an island surrounded by Federal conservation units.

ANILCA provided a procedure to gain access across parks and refuges to State and private lands, but those procedures, by design, are so cumbersome that in the last 13 years since the passage of ANILCA, not a single right-of-way has been granted. The one-time access was gained to develop a world class mine in Western Alaska. Mr. President, it took an act of Congress to initiate a land exchange.

If one refers quickly to the map to my right, one can see the specific colors. From north to south is the boundary line between Canada and Alaska, and down through southeastern to the southern tip where, again, we reach the Canadian boundary of South Ketchikan and north of Prince Rupert.

Specifically, Mr. President, the areas in green represent the national forests. The areas in the colored pink represent national monuments. These are further national park withdrawals, wilderness —all the colored areas are Federal withdrawals within the State of Alaska.

If one examines the map a little further, one can see a rather strange series of coincidence; that there is a very small artery open for access in the north to the south. This happens to be the route of the Alaska pipeline bringing the oil down from Prudhoe Bay.

The point I want to make is these withdrawals were not done by accident. They were done specifically to thwart access from the north to the south to ensure that virtually no development could occur in these rich mineral areas as a consequence of well-meaning environmental groups who simply did not want to see the resources of Alaska developed, so that they worked very, very hard with wilderness groups, and so forth, for Federal selections to close the arteries and thwart development.

We have seen the same situation throughout the boundary of southeastern Canada, so there can be no access.

These are Federal wilderness withdrawals, and the same is true all along this area. If you go out to the Aleutian Islands, it is all withdrawn; out in the National Wildlife Monument in the Yukon Delta area it is withdrawn.

What we have is the situation that to get into State lands for access, in many cases we have to try and go across Federal lands, and there is simply no cooperation, as a consequence of the agencies overseeing the Federal lands, to allow State access.

So the bottom line, Mr. President, is a reality that Alaskans are simply fed up with this injustice. Our Founding Fathers fought a revolution to get Government out of their lives and out of their pockets. The people of the territory of Alaska, back in 1959, voted to enter into an agreement with that Government, that Government being the Government of the United States, and in cooperation and fulfillment of the compact to accept the burdens of statehood for the benefits of inclusion in the Union.

Alaskans feel that we have upheld our part of the Statehood Act and the Federal Government has not upheld theirs. What they offered with one hand, that is, revenues from mineral leasing, they took away with the other hand by prohibiting development of some of the richest lands in the State of Alaska.

As you look at all those colored areas, Mr. President, one can quickly see that these were areas in the Statehood Act interpretation which clearly were to be open to the State of Alaska for selection, but they were precluded by land freezes during this 34-year period to the point where the State was unable to select in many of those areas, and that is the basis for the suit.

I think it is important, Mr. President, to note that this suit does not necessarily represent actions against the current administration or administrators of the various agencies under this administration. The jury is still out as to what the impact of the ultimate inability of the State to have access will be as far as full cost and damage is concerned. But the lawsuit is a response to a pattern of Federal dealings with the State of Alaska that can only be characterized as dealings in bad faith.

I wish to assure the President that this suit is real, that this suit is appropriate, and this suit is, indeed, a potential threat to the ability of the Federal Government to meet its monetary obligations as a consequence of a resolve of the suit before the Court of Claims.

Finally, Mr. President, since 1959, lands available from which the State could select its land entitlements were diminished. Access to the State lands, as I have stated, has been compromised by surrounding Federal land withdrawals. Potential royalties from Federal lands have been severely reduced by massive Federal land designation. The suit filed by the State of Alaska illustrates just how frustrated Alaskans are with Uncle Sam, who treats the State continually like a 49th colony, if you will. I applaud and join with my colleagues in taking this long overdue action and demanding that Alaska receive its fair entitlement under the law.

Mr. President, I ask unanimous consent that a copy of the filing of the suit for the $29 billion claim before the U.S. Court of Appeals be printed in the RECORD.

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

[In the U.S. Court of Federal Claims]

STATE OF ALASKA, PLAINTIFF, *v.* UNITED STATES OF AMERICA, DEFENDANT

COMPLAINT FOR JUST COMPENSATION

Plaintiff State of Alaska ("Alaska") brings this action for breach of contract and just compensation against the Defendant United States of America ("United States") and avers as follows:

NATURE OF ACTION

1. This is an action for breach of contract and just compensation brought against the United States to compensate Alaska for violations by the United States of the United States Constitution and the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (1958).

2. Alaska, pursuant to the Alaska Statehood Act, became one of the United States of America and was admitted into the Union on an "equal footing with the other states in all respects whatever" on January 3, 1959. The Alaska Statehood Act is a compact which constitutes a binding bilateral contract between Alaska, in its sovereign capacity as a representative of its citizens, and the United States.

3. The United States has violated the Constitution of the United States and breached the Alaska Statehood Act, a compact entered into between the United States and the people of Alaska, by denying Alaska its full share of mineral revenues from Federal land guaranteed to it in the Statehood Act and by withdrawing millions of acres of Federal lands from future mineral leasing in Alaska.

4. Absent adequate compensation to Alaska, these actions are unconstitutional and violative of the Fifth Amendment to the United States Constitution and of the Alaska Statehood Act.

PARTIES

5. Alaska is a sovereign state of the United States of America. It was admitted to the Union on January 3, 1959 pursuant to P.L. 85-508, 72 Stat. 339 (1958).

6. The Defendant is the United States of America.

JURISDICTION AND VENUE

7. This action arises under the Fifth Amendment to the United States Constitution; and the Alaska Statehood Act, P. L. 85-508, 48 U.S.C. note preceding §21.

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1491(a)(1).

9. The matter in controversy, exclusive of interest and costs, exceeds Twenty-nine Billion Dollars ($29,000,000,000.00).

COMMON ALLEGATIONS

10. The Alaska Statehood Act was passed by Congress and was signed into law by President Eisenhower on July 7, 1958. Alaskans ratified the Statehood Act in a referendum election held August 26, 1958. Alaska officially became a state of the Union on January 3, 1959, upon the signing of a presidential proclamation, admitting Alaska into the Union.

11. Legislation first proposing Statehood for Alaska was introduced in Congress in

1916, and seventeen (17) additional Alaska Statehood bills were introduced between 1947 and 1957. One of the primary reasons opponents cited for rejecting Alaska statehood was that Alaskans would not be able to generate revenues to fund self-governance. This concern arose in part because 99.9 percent of the land in Alaska was owned by the Federal Government; therefore, Alaska would not be able to generate taxes from these lands. This was a major concern for members of Congress, many of whom ultimately voted for the Alaska Statehood Act. In fact, the House Committee on Interior and Insular Affairs, to whom the H.R. 7999 (eventually signed into law as the Alaska Statehood Act) was referred, stated in its report accompanying the bill:

"As previously noted, tremendous acreages of land in Alaska have been tied up in the status of Federal reservations and withdrawals for various purposes. The committee feels strongly that this practice has been carried to extreme lengths in Alaska, to a point which has hampered the development of such resources for the benefit of mankind. As a result, a long list of potential basic industries in the Territory, including the forest industries, hydroelectric power, oil and gas, coal, various other minerals, and the tourist industry, can exist in Alaska only as tenants of the Federal Government, and on the sufferance of the various Federal agencies. The committee considers that to be an unhealthy situation.

"The failure of these industries to grow under such a restrictive policy is a proof of its unwisdom. The committee feels that this policy must be changed if statehood for Alaska is to be a success."

H.R. Rep. No. 624, 85th Cong., 1st Sess. (1955). Furthermore, as a state, because of its small population and very limited industrial base, Alaska was not expected to be able to generate sufficient income taxes necessary to support self-government.

12. Members of Congress who favored statehood conceded that statehood would impose an onerous financial burden on the new state, so they made provisions in the Statehood Act to alleviate this burden by including provisions designed to enable the new state to finance self-government. Among these are the grant of 103,350,000 acres of land and mineral rights, and the grant of 90 percent of mineral revenues generated from Federal land located in Alaska. Alaska Statehood Act, sections 6A, 6B, and 28. Congress intended that the remaining 10 percent of the proceeds from mineral revenues would be retained by the United States as compensation for the costs of administering the leases. Conditioning statehood on the existence of these provisions demonstrates that Congress intended to make Alaska the owner of its destiny by granting to it permanent ownership of its mineral resources and beneficial interest in Federal mineral resources.

13. The people of Alaska accepted the terms of the Statehood Act by voting to ratify it in a referendum election held on August 26, 1958. Section 8(b) of the Statehood Act required that the electorate of Alaska approve three propositions in order to effectuate the Act. The first two propositions asked voters whether they approved admittance of Alaska into the Union as a state and approved its boundaries. The third proposition asked voters whether they approved the terms of the compact:

"All provisions of the Act of Congress approved [July 7, 1958] reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people."

The referendum was approved by the people of Alaska by a vote of 40,452 votes for acceptance and 8,010 votes against acceptance.

14. Upon acceptance of the terms of the Statehood Act by the people of Alaska and upon Alaska's admission to the Union, the provisions of the Statehood Act became a legally enforceable compact between the United States and the new State of Alaska.

15. The people of Alaska, in entering into the compact, relied upon the compact provision providing Alaska 90 percent of mineral revenues generated from Federal land. The Congressional grants in the Statehood Act were accepted by the citizens of Alaska as consideration, inter alia, for assuming the financial, social, and political responsibilities of self-governance. Alaskans were assured that they could rely on these revenues for financing a state government by the terms of the Statehood Act, by members of Congress in debate, and by the Secretary of Interior in speeches during a visit to Alaska during the week of the referendum vote.

16. This provision is an integral part of the compact relied upon by Alaskans in accepting statehood, and it cannot be unilaterally amended by the United States, whether by administrative action, congressional enactment, or executive order.

17. The United States has breached the 90 percent revenue provision of the compact by unilaterally denying Alaska revenues to which this provision entitles it and by unilaterally denying Alaska the opportunity to receive other significant revenues.

FIRST COUNT

The Statehood Compact is a binding contract and the United States has breached the Compact by its pattern of land withdrawals and its diminution and attempted diminution of 90/10 revenue share.

18. Alaska realleges and incorporates by reference the averments of paragraphs 1–17 above.

19. The intent of Congress in enacting the Statehood Act, and the understanding of Alaskans in ratifying the terms of the compact, and by the terms of the compact itself, was that Alaska receive 90 percent of the mineral revenues generated from the Federal lands.

20. Since statehood, however, Congress has continually breached the compact by repeatedly withdrawing more than one-hundred million (100,000,000) acres of Federal land from mineral leasing within Alaska, thereby precluding generation of revenues for Alaska.

21. For example, in enacting the Alaska National Interest Lands Act (ANILCA), Congress withdrew from potential mineral location or development the Fortymile National Wild and Scenic River, the Wrangell-St. Elias National Park, and the West Chichagof-Yakobi Wilderness, all which have significant potential for mineral development. Also in ANILCA, by creating significant restrictions to exploration and development, Congress effectively withdrew lands from future mineral leasing, such as in the Yukon-Charlie Rivers National Preserve and by adding 1.5 million acres to the Arctic National Wildlife Refuge (ANWR). ANILCA alone created more than 117 million acres of Federal reservations.

22. To the extent the withdrawn lands would have generated mineral revenues had they been open to leasing, Alaska has been damaged in an amount to be proven at trial.

SECOND COUNT

Congress induced Alaska's citizens to ratify the Statehood Compact and those citizens reasonably relied on Congress' promise to reasonably develop federal land.

23. Alaska realleges and incorporates by reference the averments of paragraphs 1–22 above.

24. By accepting the financial, social and political responsibilities of statehood, Alaska's citizens substantially changed their position in direct reliance on Congress' offer to grant the new state 90 percent of the royalties derived from development on federal lands.

25. When the Alaska Statehood Act was enacted, Congress was well aware of both the necessity for a 90 percent royalty and Alaska's citizens' reliance. The need for this provision had been thoroughly debated in Congress for a decade in recognition of Alaska's inability to accept statehood without a firm economic base. Members of Congress itself well understood the perils of statehood without an economic infrastructure.

26. Congress' pattern of withdrawing lands from mineral leasing is directly inconsistent with Alaska's reasonable reliance on the promise of 90 percent royalty. Ninety percent of nothing would have defeated the purpose of the section entirely.

27. To the extent the withdrawn lands would have generated mineral revenues had they been open to leasing, Alaska has been damaged in an amount to be proven at trial.

THIRD COUNT

Congress has breached the covenant of good faith and fair dealing by withdrawing crucial Federal lands from mineral leasing.

28. Alaska realleges and incorporates by reference the averments of paragraphs 1–27 above.

29. Every contract imposes upon each party a duty of good faith and fair dealing in its performance.

30. The Alaska Statehood Compact is a contract between the United States and Alaska's citizens and the obligation of good faith and fair dealing obligates the United States to act in a manner which does not render as meaningless the agreed upon terms of the compact. Likewise, the United States has an obligation to do nothing which will injure the right of Alaska to receive the benefits of the agreement.

31. Congress recognized that the 90 percent provision was critical to statehood and to its success. By withdrawing from mineral leasing, Federal lands valuable for mineral development, it has breached and continues to breach its duty of good faith and fair dealing and evading the spirit of the bargain it struck with the Alaskan people nearly 35 years ago.

32. To the extent the withdrawn lands would have generated mineral revenues had they been open to leasing, Alaska has been damaged in an amount to be proven at trial.

FOURTH COUNT

By withdrawing critical lands from mineral leasing, Congress has "taken" Alaska's interest in the revenue to be derived from those lands in violation of the Fifth Amendment to the United States Constitution.

33. Alaska realleges and incorporates by reference the averments of paragraphs 1–32 above.

34. By withdrawing significant lands from mineral leasing, Congress has "taken" Alaska's interest in the revenue to be derived from those lands in violation of the Fifth Amendment to the United States Constitution.

35. To the extent the withdrawn lands would have generated mineral revenues had they been open to leasing, Alaska is entitled to just compensation in an amount to be proven at trial.

FIFTH COUNT

Administrative cost charge from mineral leasing on Federal land as violating Statehood Act.

36. Alaska realleges and incorporates by reference the averments of paragraphs 1-36 above.

37. The ten percent (10%) of the proceeds from mineral revenues which the United States is entitled to retain under the Statehood Compact "90/10 Provision" was intended to compensate the United States for the costs of administering the leases.

38. P.L. 101-512 (November 5, 1990), an act making appropriations for the Department of the Interior for the fiscal year ending September 30, 1991, directed the United States Minerals Management Service, an agency within the Department of the Interior, to deduct certain monies from Federal on-shore mineral leasing receipts prior to the division and distribution of the receipts between the states and the United States.

39. P.L. 102-154 (November 13, 1991), an act making appropriations for the Department of the Interior for the fiscal year ending September 30, 1992, directed the United States Minerals Management Service to deduct certain monies from Federal on-shore mineral leasing receipts prior to the division and distribution of the receipts between the states and the United States.

40. P.L. 102-381 (October 5, 1992), an act making appropriations for the Department of the Interior for the fiscal year ending September 30, 1993, directed the United States Minerals Management Service to deduct certain monies from Federal on-shore mineral leasing receipts prior to the division and distribution of the receipts between the states and the United States.

41. Pursuant to P.L. 101-512, P.L. 102-154, and P.L. 102-381, beginning with production month October 1990, the United States Minerals Management Service has deducted administrative costs from the proceeds from mineral leases prior to calculating Alaska's ninety percent share of the revenues.

42. The application of P.L. 101-512, P.L. 102-154, and P.L. 102-381 to revenues from mineral leases on Federal land in Alaska is a unilateral attempt to amend the Alaska Statehood Act, and is a breach of the Statehood Compact.

43. As of June 1993, the United States has withheld $1,714,457.37 from Alaska's ninety percent share of mineral lease revenues from Federal land in Alaska.

PRAYER FOR RELIEF

Wherefore, the State of Alaska, as plaintiff, prays for and requests the following relief:

A. That the court grant judgment in favor of Alaska pursuant to the allegations of the complaint in an amount to be determined at trial which amount is in excess of $29 Billion ($29,000,000,000).

B. That the court award Alaska its fees and costs; and

C. That the Court grant such other and further relief as it may deem just, proper, and equitable.

Dated this 23rd day of July, 1993.

CHARLES E. COLE,
Attorney General,
State of Alaska.

CHERI C. JACOBUS,
Chief Assistant Attorney General,
State of Alaska.

Mr. MURKOWSKI. Mr. President, what is the time remaining to the Senator from Alaska?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 7 minutes remaining.

Mr. MURKOWSKI. I thank the Chair.

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

The ACTING PRESIDENT pro tempore. The absence of a quorum having been questioned, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. I thank the Chair.

ALASKA'S WOLF MANAGEMENT

Mr. MURKOWSKI. Mr. President, I should like to bring to the attention of my colleagues a controversy that is occurring in my State of Alaska. It is a controversy over Alaska's wolf management that has been deliberately stoked by radical animal rights groups seeking to bolster their national fundraising efforts. Their calls are currently for a boycott of Alaskan tourism. We saw the effort initiated last year, and their charges made against the ability of Alaskans to control the population of wolves were marked by crass distortions and half-truths about the Alaska program.

Last winter, when some of these groups were called on the accuracy of the claims that they had initiated, they were completely unembarrassed by the outlandishness of those claims. Their attitude seemed to be that if wild claims raised money and caused problems for Alaska's game managers, then even irresponsible lies were completely justified.

Well, this year they are back to their old tricks. Some are so convinced they have found a key to the cookie jar that they do not care what they say. One group, called Friends of Animals, bought advertising to make a fundraising pitch with such a blatant disregard for the truth that the State has decided to initiate a lawsuit. They also may be investigated for mail fraud. This group claimed Alaskans would use radio tracking to track wolves to their dens, which is not true. It charged that hundreds of wolves would be shot from airplanes, which is not true. Also not true is the charge that aerial shooting would be allowed and that more than 100 wolves will be taken at a maximum.

The truth is, Alaskans like having wolves in their State. We like it so much that in some areas our respect and protection has left us with too many wolves—and therein lies the rub. Frankly, Mr. President, the State of Alaska would prefer it if we did not have to take such controversial and drastic action. And it is not as though we have not looked at alternatives. Over and over again, Alaskan Governors have offered to give some of our wolves to States that killed off all their own wolves. Well, Mr. President, although it is hard to believe, we have not found one of those States willing to take us up on our offer. That leaves us with little other choice.

As we look at the facts, the truth is that wolves are not endangered.

State management of Alaska's wolves has been a model of good conservation. There are more wolves than ever in Alaska right now—as many as 7,200—and the credit goes to those same State game managers who are now under fire. They are the ones who ended the use of poison and of denning, who stopped the widespread Federal wolf control programs, and who made certain that wolves would receive the same protections as any other game species.

The truth is, Alaska is not proposing to eliminate all its wolves—or even most of its wolves—or even a significant fraction of its wolves. It is currently proposing to remove only 50 to 100 animals in one small area.

The truth is, the Federal Government currently kills approximately that many wolves in Minnesota every year and those wolves are from an endangered population. Ninety to one hundred and twenty animals are taken out of Minnesota's 1,200-member wolf population each year, in order to protect livestock. Minnesota's removals are significantly greater than what Alaska is proposing, yet the population there remains healthy. Without those controls, wolf numbers would climb, predation on livestock would increase, and farmers feeling the pressure would soon feel they had to take matters into their own hands. That is exactly what happened throughout most of the country, and the only reason Minnesota can maintain a healthy population of wolves is because they are controlled.

The truth is, depressed caribou populations will not recover if wolf predation is not checked. Wolves eat as many as 36 caribou per wolf per year. In the Fortymile, where over ½ million caribou flourished in the 1920's, only about 22,000 animals now exist for a wolf population of about 200. Without management action now, the delta caribou herd—already reduced from 11,000 animals to just 4,000—will continue to decline.

Let's look at the real history of the delta herd. In 1975, a large number of wolves were removed in a previous control program. Followup efforts kept wolf numbers down through 1987, which allowed the caribou to recover, reaching a peak in 1987. But as their prey population peaked, the wolf packs grew, as well. And since 1989, the caribou have dropped by more than half,

while wolf numbers have kept growing. Part of that drop was weather-related but have now reached the point where predation is preventing recovery regardless of any other factors.

The truth is, real wolves do not always match the cleaned-up image that popular fiction gives them. For example, many people believe they only prey on the old and sick. The truth is, they prey on the weak—and the weakest of all the young animals needed for a herd's recovery. The one place where fiction comes close to the truth is that wolves are not stupid. They are certainly smart enough to know that a young, tender calf is easier to catch than a stringy oldster.

The truth is, charges by radical preservation and animal rights groups that wolf control would be unnecessary if only hunting was stopped are deliberate attempts to mislead the public. Hunting of the delta caribou herd was severely restricted in 1987, and stopped completely in 1991. But with high wolf numbers, it hasn't helped. Wolves alone are responsible for 65 percent of all adult caribou deaths each year, and 35 percent of all calf deaths. Hunting—where it is allowed—takes a maximum of only 6 percent of the adult animals.

Thirty-five percent of caribou calf mortality is caused by wolves, thirty-five percent by bears, and zero by humans. For adults, wolf predation accounts for 65 percent, bear predation for 15 percent, and human hunters only 6 percent.

The truth is that if caribou numbers are not restored through a temporary reduction in wolf numbers, it is the wolves themselves who will suffer. And as today's high wolf populations begin to starve, they will take with them not only the caribou but any other available prey. And as those populations decrease, they will affect other wildlife, such as wolverines and ravens.

The truth is that Alaska's wolf program is a biologically sound project of great benefit not only to caribou and other prey populations but to the wolves themselves. Once the caribou have recovered to the point where they can breed in larger numbers—about 3 years—the wolf population will also be allowed to increase. In the end, there should be more wolves than there are right now.

All this simply boils down to one inescapable fact: Wolves reproduce at about 40 percent per year—twice the rate of caribou. Once the system gets out of balance, the caribou just cannot recover on their own. If you started with 10 animals of each species, 7 years later you'd still only have 30 caribou, but you would have acquired more than 100 wolves. And reality is even worse, because while you are waiting, all those hungry wolves are doing their best to eat up your caribou.

Finally, the truth is that this issue is being debated in entirely the wrong forum. All of us want healthy wildlife populations. But it is wrong to allow radicals who know nothing about the problem—on either side—to set the tone of this debate, and it would be wrong for Congress to get involved where there is no violation of law or policy, and no need for action.

We must make our decisions on sound facts, on sound game management principles. Those whose self-interests lie in raising the emotional temperature of the debate cannot be allowed to prevail. We must rely on our professional managers, whose whole careers are built on using their knowledge and experience to achieve exactly the goal we want.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota [Mr. DORGAN] is recognized to speak for 10 minutes.

FEDERAL BUILDING MANAGEMENT

Mr. DORGAN. Mr. President, yesterday, we had a hearing in the Governmental Affairs Committee dealing with Federal property management, discussing with the GSA the Federal buildings that they currently have and manage, and the construction of new buildings.

Mr. President, I have been interested, during a time when we are trying to tighten our belt and reduce Federal spending and find ways to reduce this crippling Federal deficit, to see if we could not also, in the context of reducing spending, begin to abate the incessant demand and need to build new Federal buildings.

We are bringing budgets to the floor in virtually every area and seeing spending cuts in budget after budget, some of which are very painful. And yet, the one thing that does not seem to get cut is the building of Federal buildings around the country.

I wanted to show my colleagues and the Senate the information about new Federal buildings and describe why I think it is necessary to tighten our belt in this area, and describe what the head of the GSA is doing.

The first chart shows the number of Federal employees, nondefense employees. Take all the employees in the Federal Government, nondefense employees. You will see this red line in 1967 to 1990 is pretty constant; it has not changed very much. But take a look at Federal office space in 1967 to 1990. The number of employees has not changed much, but we sure have been building buildings, more and more buildings.

Let me show you the real concern that I have about the building of Federal buildings. When the Federal Government builds a building, it does not just say let us build a building sufficient for our needs. It builds an extravagant edifice that in most cases costs far more than it should.

This chart shows average building costs around the country. This is from a publication called Means Square Foot Costs where they compiled the costs of building buildings in this country. If costs about $97 a square foot to build a 4- to 8-story hospital; $75 a square foot to build an 8- to 24-story hotel; $89 a conveyor foot to build a tall office building; $61 a square foot to build a department store; $96 a square foot to build your average courthouse in America; but $230 a square foot to build a Federal courthouse.

How can that be? How can it be that when we decide to build a Federal building, it is so outrageously expensive versus the construction of all of these other buildings around the country—a hospital, a department store, a major hotel?

Well, let me show you, Mr. President, a list of projects—this is a list I have pulled out of a list of projects that are now ongoing—that I have sent over to the head of the GSA, Mr. Johnson, and asked him to take a special look at. The new head of the GSA is a breath of fresh air and will bring new life and energy to reviewing these things. I understand he will consider reviewing all building projects. That is good news, and that makes a lot of sense.

He will do that—prepare this review of all projects—to make sure, one, they are needed and, two, should we be spending this much for a building? I asked the head of the GSA to look at these 15 or so projects in some detail. One is in my State. I will run through them.

There is a courthouse in Sacramento, CA, $162 million, or $218 a square foot, to build; another courthouse at $228 a square foot, $168 million; another courthouse, $224 million; the Social Security Administration office building will cost $190 a square foot. They are going to build a border station in Pembina, ND, and they will spend $11 million in construction costs and well over $13 million including design. There will be 147 parking stations. They need a change, but they do not need to spend $13 million. It is too extravagant, too much. Look at these. There is a census center in Bowie, MD, and at $215 a square foot, it is $27 million to build that building. What are they thinking about?

Let me show you another comparison. I asked the head of the GSA to look at these 15 projects. I expect he will look at every project. We are having to tighten our belt these days, and we are building buildings at $299 a square foot.

I have another chart. They are building a courthouse in Sacramento for $218 a square foot. According to the Means Square Foot publication, it would cost $105 per square foot to build a hospital, $81 per square foot to build a hotel, and $105 per square foot to build a courthouse. But not the Federal Government. It is $218 a square foot to

build a courthouse. I know it has bulletproof desks for judges, and I cannot find out what that costs.

I understand the extravagances. The taxpayers cannot afford this and should not have to afford it. In Seattle, WA, it is $299 a square foot to build the building there that is now planned. It costs $100 per square foot to build a hospital in Washington, $77 a square foot to build a hotel, $63 a square foot to build a department store. But they are going to build a courthouse at $299 a square foot, paid for by the American taxpayer.

My point is that we should not build a Federal building, or when we do it, we should not build it so well. We are having to tighten our belts and cut back, and we have children without immunizations and people that do not get emergency feeding and medical and health problems, and we have problems in virtually every area of public policy and public spending. But those who are planning and building these buildings have no problems. It is another fat and happy day for them when they come to work, because the sky is the limit on what they are willing to put into these buildings, and the good old taxpayers will pay for it as long as nobody has to ask the detailed questions of why it costs that much. But we ought to ask those questions; we ought to ask hard and tough questions.

The new head of the GSA—thank gosh, we have a new person over there, who, I think, will be a breath of fresh air. He is willing to review virtually everything. Just these 15 I pulled out represents $1.2 billion worth of spending. I am not saying we should not build them, but if we are going to build buildings across the country, let us do it like we are doing with the rest of the budget and look at it and see what is extravagant and what is not and cut it back. We can ask the question: Why can we not build a building for a reasonable price? Why would we build a building that costs us triple what it would cost anybody else in this country to build the same building? Those are the questions we ought to ask.

I have suggested a 2-year moratorium on building Federal buildings. There are precious few people in this body who would like to cosponsor that, because almost everybody has a building going up someplace, and they do not want to offend anybody. I think three other Members of the Senate have joined me as cosponsors, and I understand it. Part of the problem is here and in the House, and part of the problem is the judiciary. The judiciary comes to Members of the Congress and says, "We want this." So they provide the stimulative juices, those folks in the judiciary. Somebody else writes in thinking it is good for their town. Well, it might be, but if you are going to spend double or triple what you ought to spend and it comes out of the taxpayer's hide, it might be good for your town but not for this country.

I am not saying we should not build some of these projects. Build them if they are needed. But build them in a way that exhibits reasonable costs and makes a reasonable investment for the taxpayer.

Mr. President, I yield the floor and 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. CONRAD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. CONRAD. Madam President, I ask unanimous consent that I be designated to control the time that has been previously provided for.

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

THE DEFICIT-REDUCTION PLAN

Mr. CONRAD. Madam President, there has been a great deal of caterwauling in the last several days about the deficit-reduction plan that is now moving through the conference committee.

Madam President, I thought this morning would be a good time to do a reality check of what it is we are doing and why we are doing it.

When I hear some of my colleagues say we ought to put this off, we ought to delay, I strongly disagree. We really have no choice but to put in place a major deficit-reduction package. We have no choice because, if we fail to act, the debt will continue to grow and it will threaten the economic security of this country.

I think this chart that shows the growth of the Federal debt dramatically displays why it is that we simply must act.

Madam President, this chart shows from 1950 through 1998 what has happened to the debt and what will happen if we fail to take action.

Madam President, I think most startling is what has happened since 1980. In 1980, we had a debt of less than $1 trillion; in fact, it was about $900 billion. But look what has happened since 1980. The national debt has absolutely skyrocketed. Gross debt now is over $4 trillion and it is headed for $6.5 trillion at the end of 1998 if we fail to take action.

Madam President, one of the great ironies of the current debate is that one of the groups that is most active in opposing this major deficit-reduction package is a group called the Citizens for a Sound Economy—Citizens for a Sound Economy.

When you look at who heads that group, do you know what you find? You find that the man that is the head of the group, Citizens for a Sound Economy, is one of the architects of the economic policies that saw the explosion of the national debt during the 1980's. That man was head of the Office of Management and Budget when we saw this explosion in the national debt. Now he is going around the country criticizing this major deficit-reduction plan.

I guess I am not surprised. I guess his economic policy is to stack debt on top of debt. Of course, that is the easy way. We could continue on that path. It is very simple for those of us in politics to spend the money, cut taxes, and just stack it on the debt—put it on the charge card; let the kids worry about it.

Madam President, that way would lead to economic ruin for this country. It is not a precipitous charge, where you suddenly fall off a cliff. It does not work that way. Instead, the national debt eats away at the economic foundation of this country. This is why we must act. There is no choice.

Madam President, for those who wonder about the consequences of our failure to act, let me just show this chart, because it shows what the consequences have been so far.

This country—fairly recently—was a major creditor nation in the world. More countries owed us more money than any other country in the world.

But look what happened. As our national debt grew that put pressure on domestic interest rates. We had the highest real interest rates in our economic history. That hurt the competitive position of the United States. And, lo and behold, we now know the result. We went from being the largest creditor nation—more countries owed us more money than any other country in the world—to now being the largest debtor nation, owing more money than any other country in the world. That is the result of an economic policy that built the national debt and led us to become the largest debtor nation in the world.

Mr. President, I ask unanimous consent that the tables to which I refer be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CONRAD. It makes one wonder, when are we going to sober up? When are we going to face what is so clearly true—that this country is on a course that is simply not sustainable.

Madam President, as we saw the explosion of the national debt, we saw another very disturbing trend. We saw the interest payments that are required to service that debt grow in the same way.

This chart shows very clearly what has happened to interest spending. This is what has happened to interest as a

percentage of our gross domestic product from 1955 projected through the year 2003. You can see the interest on the debt is now eating up our budget. We are now spending a greater and greater percentage of our Federal budget just on interest to service the debt. This will over time wreak havoc on the Federal budget because those interest payments do not educate a single child, they do not build a single airplane for the national defense, they do not provide immunization for a child who needs that protection against disease, they do not do a single thing to build a bridge or a road or to strengthen the economic competitive position of this country. This has to be stopped.

This next chart shows what the alternatives are that are before us. We can do nothing. I have been here 7 years. In 7 years we have done nothing. Doing nothing was well ingrained before I arrived because for 12 years we have done nothing. We have allowed this debt to rise and we have seen our country's economic strength threatened.

This chart shows what has happened to the budget deficit during the Bush years. The deficits rose each and every year; each and every year the deficits went up.

Madam President, if we adopt a business as usual approach, those deficits will be flat for the next few years and then they start to dramatically increase once again. I say they are going to be flat for the next few years. They are going to be flat at record high levels of about $300 billion per year. The alternative is to adopt a package like the Senate package that makes a serious reduction in those annual deficits.

This next chart shows what a difference it makes over time if we tackle this problem. That is really the question before us. There is no magic bullet, there is no magic formula that is going to do this job for us. We are going to have to do the heavy lifting ourselves. That means spending cuts and, yes, it means the dreaded "T" word—taxes.

This problem is so big there is simply no alternative. I have spent literally hundreds and hundreds of hours coming up with plans to reduce the Federal budget deficit because I personally believe it is the greatest threat to this country's long-term future. That is my own opinion. A lot of economists join me in that opinion.

This analysis that was done by the GAO indicates what happens if we just continue on the current course, the "no action scenario." By the year 2020 per capita GNP in this country will be $23,875, that is if we do nothing. If instead we move toward a balanced budget by the year 2001, if we would do that instead of allowing these deficits and the debt to grow, in the year 2020 the average per capita GNP in this country would be $32,555. That is an extraordinary difference. That is a difference of about 40 percent in the income that our children would enjoy in this country if we balanced the budget by the year 2001 versus the alternative of just staying on the current course.

That is what this fight is all about. It is a fight about the future. What kind of future are we going to extend to our children and our grandchildren? Are we going to stay on this current course that dramatically weakens the future economic strength of this country? Or are we going to take bold and decisive action that provides a much better future, a much stronger economic future, for our kids?

We have heard over and over from the other side that this tax increase is the biggest tax increase in the history of our country. In fact, they have even said it is the biggest tax increase in the history of the world. That is what they said in my State when I voted for the package of $500 billion of deficit reduction. It is simply not true.

Oh, how short their memories are on the other side. They forget in 1982 when the Republicans controlled the U.S. Senate, when the Republicans controlled the White House, when the Republicans had effective control of the U.S. House of Representatives because there was agreement between the Republicans in the House and the boll weevil Democrats—and we remember the headlines: "Reagan Economic Plan Passes."

We remember those headlines. We remember what happened in 1982 when they passed the biggest tax increase in the history of this country. Madam President, in real dollars, comparable dollars, an apples-to-apples comparison, here is what the Republican tax increase was in 1982: $298 billion. The tax increase that is in this package is $222 billion. So their tax package, in real dollars, an apples-to-apples comparison, was bigger in 1982. And it was bigger as a percentage of the gross domestic product as well.

Let there be no misunderstanding and let there be no mistake—the Republican tax increase that was shepherded through here by the Republican leader was a much larger tax increase than the one we are talking about in this package.

We have heard a lot of talk about the effect on the middle class. I would like nothing better than to have no tax on the middle class in this country. That would be a great thing if we could achieve that.

This problem we face is not just a problem for the wealthy in our country. It is not just a problem for those who have a lot of money. This problem we are talking about, the explosion in the national debt, is a problem for every American. Each and every one of us is threatened by a failure to act. And this problem is so big, it is so big if you really study it, really spend time trying to understand it and trying to solve this problem, there is no alternative but to act. And all of us must participate. Programs that we like must be cut. Spending must be cut.

Taxes must go up. This is a difficult pill to swallow. This is the hard reality that we confront. The easiest thing in the world would be to stand on this floor and tell the American people, as they have been told for the last 12 years, "You don't have to do anything; we can increase spending on the programs that you like; we can cut your taxes; and we will make it all add up."

We were told that story. We were told that story in 1981. We were told that story in 1982. We were told that story every year for 12 years, and what is the result? It is an economic disaster for this country. That has been the result.

And so now what is it going to take before we open our eyes and see what is true? What is true is, it is not easy; it is not simple. It is not going to happen by our doing the easy thing. It is only going to happen by us doing the right thing, and the right thing is to get our fiscal house in order.

Madam President, all of us are going to have to play a part in that solution. The proposal before us is very modest with respect to the middle class. It asks a family with taxable income of $40,000 to pay an additional $10 a month. By contrast, if that family has refinanced a $100,000 mortgage, reducing the interest costs from 10 to 7.5 percent, as my family has just done, they will save $175 a month. That is the good news. The good news is that there is real light at the end of the tunnel. There is a benefit to all of this. The benefit is lower interest rates.

Already, long-term interest rates are down 125 basis points, Madam President. That provides an enormous lift to this economy because it puts more dollars in the pockets of individuals, small business owners, farmers, and large businesses that are able to pay a lower interest rate to service their debt. Not only does it help them service their debt, but it helps the Federal Government service its debt. That is the best thing that we can do for this economy at this time.

I have talked to literally dozens of financial managers and literally dozens of economic analysts, and they all say the same thing. They say: "Look, if you fail to act, interest rates are going to skyrocket; they are going to go right back up because they are down in anticipation of the Federal Government finally acting." That is why we must proceed. That is why we have to summon our collective courage around here and get this job done.

Madam President, we have also heard a lot of talk about small business owners being adversely affected. Frankly, there have been a lot of partisan and political claims made on this floor. My

wife did own a subchapter S corporation. I am very familiar with subchapter S corporations. My family was a business family. I have a master's in business administration. I am intensely interested in what happens to small business. Most of the business owners in my State are small business owners. I do not have any big business operations in my State. Mine is a small and rural State. The business people up and down Main Street matter a lot to me.

When I hear all of these claims about small business, as a former tax administrator, I really wonder if these people have studied what this bill does. I wonder if they have really analyzed what is the difference between a subchapter S corporation and a regular subchapter C corporation. I do not think they know. I really do not think they have any idea what they are talking about. There is not a tax adviser in this country who would tell a small business owner to shift from a subchapter S to a regular subchapter C corporation as a result of what we are doing. There is not one in this country. I would like to find one that they can point to that would tell their clients to shift from being a subchapter S to a subchapter C corporation.

And why is that? Because the truth has little been told in this debate. Even with these increases, a person is far better off under a subchapter S form than under a regular subchapter C corporation. That may come as a big surprise to people who have been listening to this debate.

The fact is the effective tax rates—that is what matters—the effective tax rates are still lower under subchapter S form than under a regular subchapter C form for people who have small businesses. That is the fact. Nobody has been talking about it much out here, but I can tell you, financial advisers all across this country know that what I have said is accurate.

Madam President, the reality is most small business owners will not pay higher taxes. In fact, of the taxpayers with most of their income from a small business, only 4.2 percent will pay higher taxes; 95.8 percent will not pay higher taxes. I do not know why that information is not getting out, but it is accurate. It is a fact. If you look at the tax rolls of this country, that is what you find out.

On individual tax rates, there has also been a lot of misrepresentation. I prepared this chart that shows what has happened to individual tax rates from 1960 to 1994. By the way, the owners of subchapter S corporations pay on the basis of individual tax rates. They do not pay corporate tax rates. They pay on the basis of individual tax rates. This is what has happened to individual tax rates in this country from 1960 to 1994.

In 1960, the top individual rate was 91 percent—91 percent. In the seventies, the average was about 71 percent. And then we had dramatic reductions. Individual tax rates declined until in 1991, they stood at 31 percent. Under this bill, the top marginal rate will be 39.6 percent, still well below, dramatically below the individual tax rates that applied in the seventies and the sixties. By the way, that was a period of much more robust economic growth in this country. It is very interesting: Much higher individual tax rates, much higher levels of economic growth.

Madam President, one of the things that has been discussed a lot is the energy tax component of this package. I think a lot of people have forgotten that Ross Perot, when he was running for President, called for a 50-cents-a-gallon gasoline tax. Look what that would have done. That would have cost $325, on a national average, per person. That was the Perot proposal, $325, because he had a 50-cent gasoline tax when fully phased in. The House Btu tax would have cost $113 per capita; the Senate budget package, $28 per capita.

Madam President, I wish to conclude by talking about spending because we have heard a lot of discussion about spending. A lot of people say spending is not being reduced under this plan. They are just wrong. The Clinton plan included over 100 items that were cut $100 million or more. There are about $100 billion of reductions in entitlements, about $100 billion of reductions in discretionary spending over the next 5 years in this package.

What is perhaps most revealing is what happens to total spending as a percentage of our gross domestic product. This chart shows from 1990, 4 years of the Bush administration and the 4 years of the Clinton administration, what will happen to Federal spending as a percentage of the gross domestic product.

Every year of the Bush administration spending went up as a percentage of gross domestic product. Every year of the Clinton administration spending will go down as a percentage of the gross domestic product. That is the real story on spending, and I think we ought to make sure that people hear it.

Finally, let me just show the spending changes that have occurred over the last 30 years.

One of the things I wanted to do was check what has happened to spending over the last 30 years. As a percentage of gross domestic product, spending has gone up. It is now running about 24 percent of gross domestic product. It was about 20 percent 30 years ago. I wanted to check where those increases occurred.

Madam President, this is what I found. Medicaid 30 years ago barely registered. Today it is over 1 percent of gross domestic product. Medicare 30 years ago did not exist. Today it is 2 percent of gross domestic product.

Social Security 30 years ago was 2.6 percent of gross domestic product. Today it is 4.9 percent. Interest on the debt 30 years ago was 1.2 percent of gross domestic product. Today it is 3.4 percent.

If one looks at all the rest of Federal spending, one finds 30 years ago it was 15.3 percent of gross domestic product. Today it has been dramatically reduced to 11.9 percent of gross domestic product.

Madam President, when people say spending has gone up, they are right; spending has gone up. And all of the increase and more is in just four places: Medicaid, Medicare, Social Security, and interest on the debt.

Madam President, everybody says do not touch Social Security. That is a bipartisan agreement: do not touch Social Security. Medicare and Medicaid can best be approached by comprehensive health care reform. That is the next critical phase of the deficit reduction proposal of the President. Interest on the debt, you have to pay it. You owe it; you have to pay it. All the rest of Federal spending as a percentage of gross domestic product has gone down.

Madam President, the hard reality is we have to act. There is no alternative. A failure to act would mean the financial markets would run amok. Interest rates would skyrocket. The stock market would plunge.

Madam President, this is not a perfect package, but it is the most honest package of $500 billion of deficit reduction I have seen—honest projections, honest assumptions. All of us might do it differently. I certainly would. I would like to add more spending cuts to this package. I would like to add a lot more. Madam President, when it comes time to vote on this floor, the choice will be to act to reduce the deficit or to fail to act and to do nothing.

Doing nothing cannot be the answer of the Congress and the President at this time.

I thank the Chair and yield the floor.

EXHIBIT 1

TABLE 1.—*United States now a debtor nation—United States net international investment position*

1977	190.548
1978	228.421
1979	342.929
1980	392.547
1981	374.254
1982	378.933
1983	337.376
1984	232.852
1985	138.95
1986	18.735
1987	−26.63
1988	−183.715
1989	−312.286
1990	−294.836
1991	−361.503

Source: June 1992, Survey of Current Business.

TABLE 2.—*Interest spending as a percent of GDP: Fiscal year 1955 to fiscal year 2003—*

1955	1.3

TABLE 2.—*Interest spending as a percent of GDP: Fiscal year 1955 to fiscal year 2003—Continued*

	1.2
	1.2
	1.3
	1.2
1960	1.4
	1.3
	1.2
	1.3
	1.3
1965	1.3
	1.3
	1.3
	1.3
	1.4
1970	1.5
	1.4
	1.3
	1.4
	1.5
1975	1.5
	1.6
	1.6
	1.6
	1.8
1980	2.0
	2.3
	2.7
	2.7
	3.0
1985	3.3
	3.2
	3.1
	3.2
	3.3
1990	3.4
	3.5
	3.4
	3.2
	3.2
1995	3.4
	3.5
	3.6
	3.7
	3.8
2000	4.0
	4.1
	4.3
	4.5

Source: CBO, fiscal year 1993 to fiscal year 2003 estimated.

TABLE 3.—*Total spending as a percent of GDP—spending goes up under Bush, down under Clinton*

	Percent
Bush:	
1990	22.92
1991	23.51
1992	23.55
1993	23.89
Clinton:	
1994	23.25
1995	22.83
1996	22.4
1997	22.25

I yield additional time to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Senator. I thank the Chair.

I ask unanimous consent that I be allowed to proceed for 8 minutes.

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

THE PRESIDENT'S ECONOMIC PLAN

Mrs. BOXER. Madam President, the moment of truth is coming on the President's economic program. Months of debate, compromise, delays, and close votes have brought us to this point. As one Senator from the largest State in the Union—and, Madam President, you and I share that distinction and honor—I have three words that describe my feelings about this economic plan: "Get it done." Objective experts, such as Data Resources, L.H. Myer, and Wharton Econometrics, say that the economy will create between 7 and 9 million jobs over the next 4 years under the Clinton plan. Roughly 2 million of these jobs, Madam President, will be in California.

Now, this is not Senator BARBARA BOXER saying this or President Bill Clinton saying this or Leon Panetta, the Director of OMB, saying this. This is Data Resources, L.H. Myer, and Wharton Econometrics. Madam President, these sources advise the Fortune 500, and they say that this plan is a job-producing plan. You and I know we need those jobs—good jobs in education, health care, construction, environmental cleanup, and infrastructure and high tech and biotech industries. So I speak as one of the two Senators from the largest State in the Union this morning, and I also speak as a former stockbroker. As a former stockbroker, I say get it done.

The financial markets have already discounted positive action on the economic plan. That means in plain language that if we fail to get this economic plan through, it is a clear signal that this Congress is not serious about deficit reduction, and surely as night follows day interest rates will rise if we do not pass this program.

Madam President, if interest rates rise, home sales will drop and business expansion will drop and the interest payments on the debt will rise, making the deficit expand, putting further pressure on interest rates. It is a vicious cycle of being in the economic doldrums when those interest rates rise.

But I wish to ask this question: What do rising interest rates mean to real people facing real, everyday economic challenges? Rising interest rates mean that you need more money to buy a home because the interest rate on your mortgage goes up; you need more money to send your child to college because the loan that you take from the bank, if you need to borrow it for that large expense, is at a high interest rate; and you need more money to pay your department store credit card if you use that credit card.

High interest rates mean fewer jobs because business expansion slows because the businesses cannot afford loans. Higher interest rates are, in effect, a form of a very large tax increase.

Listen to what the experts say about what will happen to interest rates if this budget plan collapses, because when I stand here as a Senator who happens to be a Democrat, my colleagues on the other side of the aisle say, "Oh, this is politics." Well, I wish to try to take the politics out of it. So I am going to quote Robert M. Solow, Nobel laureate in economics and professor at MIT, and James Tobin, Nobel laureate in economics and professor at Yale. This is what they say, and I quote, Madam President:

> Failure to pass the package essentially intact would be a great mistake. It would send a message at home and abroad that Federal fiscal policy remained out of control and there was no concerted will to do what all sides agree has to be done.

Chairman of the Federal Reserve Alan Greenspan—and Alan Greenspan was appointed by Republicans, Madam President, Republican Presidents—told the Congress that "if you appear to be backing off, I think the markets would react, appropriately, negatively." Chairman Greenspan went on to say, "We have run out of time. If we don't come to grips with this issue now, we will always find the means not to do it."

So I say, as a Senator from California and as a former stockbroker and someone who has listened to the bipartisan experts, get it done. I have seen the stock market react very negatively on rumors of high interest rates because high interest rates mean low economic growth. If we fail to pass this tough $500 billion deficit reduction plan, there will be more than rumors, Madam President, pushing the stock market down. We will see higher interest rates, and then we cannot predict how the markets will react. I think the head of the Federal Reserve Board has been very clear on that point.

So this plan will bring us jobs and economic expansion through targeted tax incentives for business and new Federal investments that are paid for by cuts in low priority programs.

Now, what are the criticisms from the Republicans that we get hour after hour and day after day? They say there are not enough spending cuts. Well, there are $250 billion in spending cuts.

Here they are, Madam President. Here is just $100 million of them, page after page of specific spending cuts. Unlike the Republicans, President Clinton specified where these cuts would be made. They are in some areas that I do not want to see cut, frankly. They are tough. But they are there and we have to embrace them and move forward with real spending cuts.

There are personnel reductions at HHS, Commerce, at EPA, Departments of Transportation and Labor. They are tough cuts, but when the Republicans are asked to be specific about their cuts, oh, they embraced all President Clinton's cuts but they failed to list even one more specific cut.

They talked about caps—unspecified caps—on Medicare and Medicaid. Would these caps hurt our elderly and our families? Yes, they would. But the Republicans will not spell them out. I call these cuts "ghost cuts." You do not see them, although the Republicans swear that they are there.

And even if you accept their ghost cuts, when you add up the deficit reduction in their plan, it falls short by $100 billion. Seventy-five percent of the deficit reduction in their plan takes place in the last 2 years, when they have criticized us saying that many of our cuts take place in the later years.

The Republicans failed the deficit reduction test. Why? Because they are afraid to tell us specific cuts and shudder, shudder, Madam President, overtaxing the wealthy in this country; those who saw huge increases in their incomes in the eighties. I have nothing against people who did well in the eighties; the millionaires, multimillionaires, the billionaires. They earned it. But I would say is it fair—and I pose this simple question—for someone who makes $1 $5 or $10 million a year not to pay taxes at the same rate as someone earning $53,500 a year?

I say that this is wrong.

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

Mrs. BOXER. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Madam President, I reluctantly do because there are people who follow the hour that has been reserved, whose time would be encroached on.

Mrs. BOXER. Will the Senator allow the Senator from California to have 30 seconds?

Mr. WALLOP. Yes.

The PRESIDING OFFICER. Thank you very much.

Mrs. BOXER. I thank the Senator for being so gracious. I will sum up.

Madam President, we have three choices: No. 1, doing nothing. We will have deficits through the roof, it will cripple our economy in the long run.

No. 2, the Republican plan that does not meet the test, and that Wharton Econometrics says would lose 250,000 jobs.

Finally, the Clinton plan, a well-balanced plan that gets us on the right path.

I urge my colleagues on both sides of the aisle to stop pointing the fingers and let us get together and let us get California and this country moving again. I thank the Chair.

ORDER OF PROCEDURE

Mr. LIEBERMAN. Madam President, I ask unanimous consent that I be allowed to proceed as if in morning business for up to 4 minutes.

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

Mr. LIEBERMAN. Madam President, I thank the Chair. I particularly thank my friend and colleague from Wyoming for his graciousness in allowing me to proceed briefly to speak on a question of some moment this morning.

AMERICAN AIRPOWER IN THE FORMER YUGOSLAVIA

Mr. LIEBERMAN. Madam President, the news this morning is that President Clinton may be considering the use of airpower, American airpower, in the former Yugoslavia.

I rise this morning to say that I hope that this is so. I hope that the President, working together with our allies in Europe, will finally seize this moment of desperation within Bosnia, desperation for the Moslems, and aggression most recently by Serbian forces against United Nations' troops in Bosnia, to show that there is more than rhetoric to our policy in Bosnia, that we are prepared to use force to protect the rule of law and the lives of people.

Madam President, I have felt as these desperate and tortured months have gone by in the former Yugoslavia, that we have seen a massive failure of statecraft. Aggression by Serbs and genocide against Moslems has essentially been left without a response. There was only one moment where it seemed that there was hope for a resolution. That was when President Clinton put forth his two-part program of lifting the arms embargo against the Moslems and of using American air power to strike at Serbian artillery positions. At that moment, the Bosnian Serbs signed the peace treaty. Milosevic of Serbia stopped the movements of arms and supplies to the Serbs within Bosnia. However, once that resolve was diminished, the aggression began again.

I leave to history to decide whether President Clinton's two-part program was not implemented because of a failure of advocacy on the American part or a failure of will on the European part. The fact is, though it is late in the battle in Bosnia, it is not too late.

I hope the President will respond through the United Nations' structure, as we did in Somalia when troops were attacked there. We responded, as well we should have. Here, as the final insult to the forces of international order, the Serbs have struck at United Nations' forces in Bosnia and again we should respond.

Madam President, if President Clinton uses air power in Bosnia, it is, of course, the right thing to do from the point of view of the Moslems who have suffered so terribly there. It is also the right thing to do for the United States, whose credibility has been diminished, whose power has been sneered at, and whose President has been derided by the Serbian aggressors. And, of course, it is the right thing for the United Nations, struggling as it is to achieve some order in this post-cold-war world.

So I hope that the news today has some substance, that the United States will act with the United Nations aggressively in a way that I have learned from my service on the Armed Services Committee will pose little risk for American personnel but great hope for stopping the slaughter in Bosnia, and thus give us some reason to believe that the post-cold war world will be more stable and more civil than it has been up until this time.

I thank the Chair. Again I thank my colleague from Wyoming for allowing me to speak at this point. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, it is the understanding of the Senator from Wyoming that there is 1 hour.

The PRESIDING OFFICER. That is correct.

SENATOR BOXER'S COMMENTS

Mr. WALLOP. I thank the Chair. Momentarily, I intend to yield to the Senator from Oregon. But the comments of the Senator from California struck this Senator as peculiarly ironic. The Senator accused Republicans of proposing ghost cuts: Cuts that we have refused to identify but that we lay claim to anyway. Then she went on to say, that our ghost cuts fall $100 billion short. So apparently these so-called ghost cuts are sufficiently well identified to be totaled, as being $100 billion short, but not sufficiently well identified to be credible.

The Senator from California also quoted job statistics from DRI-McGraw Hill, L.H. Myer, and Wharton Econometrics.

I hope that it might be possible that she, and those on the left-hand side of this great Chamber, read all of those studies because they are rather interesting.

DRI-McGraw Hill assumes the creation of 300,000 new jobs as a result of the Clinton plan. However, 1.4 million of these jobs depend on interest rate assumptions—most importantly that the Fed accommodates the program by lowering short term rates. Yet in recent weeks the Fed has threatened to raise, not lower rates. If we simply assume that the Fed does not change interest rates one way or the other, then the Clinton plan destroys 1.1 million jobs.

Given these statistics, I am happy to quote DRI-McGraw Hill. If I may also quote L.H. Myer: "The model predicts 7 million additional jobs over the next 4 years. It predicts 7 million jobs with the Clinton program and 7 million jobs without the Clinton program."

The Wharton Econometrics Model finds that the Clinton program would have a negligible impact in 1994, but in

1996 and 1997, the program is economically contractionary. Their model shows that, by 1996, with the enactment of the Clinton program, the GDP growth rate would be 0.3 percent lower. The model translates this growth rate reduction into a loss of 200,000 to 300,000 jobs in 1996 and 1997. According to Wharton Economist, Robert Wescott, "the program is definitely a minus for growth in 1995 and 1996."

I am quite content to quote and use those economic experts that were raised by the Senator from California. The Senator from California also quoted the Chairman of the Federal Reserve, Mr. Greenspan. It is important to read not just the newspaper headlines about what he says but the text of what he says, which is somewhat at odds with press coverage.

Let me quote Mr. Greenspan's testimony before the House and Senate Banking Committees:

> The role of expectations in the inflation process is crucial. Even expectations not validated by economic fundamentals can themselves add appreciably to wage and price pressures for a considerable period, potentially derailing the economy from its growth track.

In discussing lower long-term interest rates, Chairman Greenspan indicated that the positive effects of these lower rates have been "at least partly offset by business spending reductions as a consequence of concerns about the effects of pending tax increases."

Neither the press nor the Senator from California have made note of all of what the Chairman said.

The Chairman further commented:

> It seems that the prospective cuts in the deficit are having a variety of substantial economic effects, well in advance of any actual change in taxes or in projected outlays. Moreover, uncertainty about the final shape of the package may itself be injecting a note of caution into private spending plans. In addition, uncertainty about the outlook for health care reform may be affecting spending at least by that industry."

Madam President, these comments mirror the concerns expressed a few weeks ago by Laura Tyson, Chairwoman of the Council of Economic Advisers, who, in a news article, expressed concern about the depressing impact that the administration's tax-plan may be having on the economy.

Madam President, I yield 10 minutes to the Senator from Oregon.

THE TAX BILL

Mr. PACKWOOD. Madam President, I thank my friend.

The junior Senator from California this morning was quoting two experts as to what would happen if we do not pass the plan. The Senator from Wyoming indicated what other experts say on the front page of the Wall Street Journal today, under the tax report column, regarding what would happen if Congress rejects the tax bill. Two or three experts mentioned were saying the tax bill would hurt the economy. The bond rates are going to go down even if the bill does not pass.

This argument is sort of like "My dad can beat up your dad." We ought to set these things aside and talk about the bill and leave it to the American people as to whether they think this is going to help them and their business or their employees or not.

Mr. WALLOP. If the Senator will yield, it is interesting to note that the new nationwide propaganda effort by the administration claims that 8 million new jobs will be created. The CBO predicted in January that if we do nothing, 9.4 million new jobs will be created. So perhaps it is better to stand still than to run downstream.

Mr. PACKWOOD. I want to compliment the Senator from Oklahoma, [Mr. BOREN], for his statements yesterday about asking the President to drop this bill and convene a bipartisan group. I am willing to be a part of that, and I am a Republican who would be willing to support some tax increases—I will not argue on who and what kind, but some tax increases—if they were coupled with genuine spending cuts in the same bill that were enforceable and irrevocable, not cuts based upon the come, based upon the promise of something we will do in the future, but cuts in the bill we passed itself. I would be happy to go to Andrews Air Force Base, or Camp David, or wherever, with the President to discuss it. I would be happy to skip the August recess and meet with him for as long as he wants until we reach a conclusion.

I want to talk about the difference between the bill we are now considering in the conference—and I will have to do some averaging because the Senate passed one form of the bill, and the House passed a slightly different form, and we are trying to harmonize the difference. The difference between the bill and what frequently the President, or the President's allies say, is the President's plan would cut the deficit $250 billion in spending cuts. There is a difference between the bill and the President's plan. The bill that we are considering, which is now in negotiation between the House and Senate, if it passes in the form that we understand, will be roughly this: $250 to $260 billion in new taxes. Those taxes are here now and permanent and, in some cases, even retroactive and go into effect earlier this year. There will be in the bill about—I will guess—$50 to $60 billion in spending cuts, almost all of it in Medicare and Medicaid, and almost all of that out of the hides of hospitals, labs, doctors, and none of it out of beneficiaries.

There is $250 billion in taxes that are assured, and $50 billion in spending cuts are probably assured. In the bill is a provision for what we call caps. I am assuming these will be in there. It says in the future we are only going to spend x amount of dollars in certain programs; we aggregate them all, and if we go over that, there will be a sequester. We will cut spending across the board in certain areas, or we will do something to make sure we do not go over that. And the term sequester really came into our budget language with the Gramm-Rudman-Hollings bill, where we tried to get the deficit down and said if the deficit was above a certain amount, the President would cut across the board certain programs, just cut them, until we got the deficit down. It did not work because every time we came up to a big, serious sequester, billions of dollars, we waived it. We thought it was too painful.

That, in my judgment, is the problem with the President's plan. It is a hope that we will cut in the future. It is a hope that Congress will go along. It is a hope that interest rates will stay where they are.

I will give you one example of the President's plan, and where you really find the plan is in his vision for change for America. It came out in February of this year, and most of it was incorporated in his budget message. One was for a national service program, which we are debating right now. He wanted $9.4 billion in new money—this is a brand new program—for a national service program; that is over 5 years.

There is no indication as to where this money was to come from. As a matter of fact, in the same document he had a total of about $165 billion in increased spending above what we were otherwise already programmed to spend—$165 billion in new spending, some of it on existing programs like Head Start that he wanted to expand, and some on new programs like the national service program. That is the President's plan. That is his hope. Congress has cut that down.

But let us put aside his plans and hopes and just talk about the bill that we are on—$250 billion in taxes, roughly $50 billion in spending cuts. Can we, if we pass that—with these caps—hope that we will stick to the waivers? Here I say no, for this reason:

On January 21, the day after the President was inaugurated, he had the power under the existing law under what were called technical corrections to waive the Gramm-Rudman-Hollings sequesters. He was faced with a $22 billion sequester in this fiscal year, a $42 billion sequester next year, and he waived it. We are not going to do that. We are not going to cut that spending.

Then, you will recall his stimulus program started out $19 and $16 billion. The Republicans frankly filibustered it, and it died. He declared the program was to be an emergency, and under a declaration of emergency it does not have to be paid for, just borrow the money. It is sort of like the waiver, except this was a prospective program. He said, in essence, that does not need to fit under the caps because it is an emergency.

Then, we had the unemployment compensation measure. To use the lingo of the Congress, it was a pay-go, pay-as-you-go. If we were to spend money on unemployment compensation, we were to pay for it. He wanted to waive that and borrow the money. It is an emergency. The people are out of work.

Normally, "emergency" in your mind you think of the floods in the Midwest; you think of a forest fire in Yellowstone; you think of a hurricane in Florida; something you did not expect that is absolutely horrendous.

The unemployment problem we could see coming for a long period of time. It was not an emergency in the sense it just hit us just like that. He wanted to waive it.

Then, the flood relief—apparently, there will be an emergency declaration, and at least this is a genuine emergency. But we are not going to pay for it. We are going to borrow the money.

So there is my fear about the promise for the future. We will borrow the money for a variety of emergencies of which but very few will be a real emergency like the flood. The rest will go for things we see coming 3 or 6 months, 1 or 2 years ahead and still call them emergency and borrow the money.

The other fear is that the Congress and President, historically, when they have money spend it. We do not use it to pay down the deficit. We spend it. When we raise taxes, we raise spending.

Proof: In 1950 all of the governments of the United States—Federal Government, State government, local government, fire district, school districts, all of the governments of the United States—taxed 21 percent of the gross national product. We spent 23 percent. So we had a deficit between all of us. That is in 1950.

Forty years later we are taxing all of us about 31 or 32 percent of the gross national product, and we are spending about 36 percent.

So taxes have gone up a lot. Spending has gone up a lot. And we still have a deficit.

The argument is that we will not do that this time. Again, I will say baloney. One of the President's plans was to eliminate the reduction for lobbying expenses. I am not going to get into an argument here whether that is wise or not wise. It was eliminate the deduction for lobbying expenses, it would produce about $1.2 billion, and that would go to narrow the deficit. It was going to go for deficit reduction.

What did the Senate do? We voted to get rid of the lobbying expenses all right. We took the $1.2 billion and put it into our so-called campaign reform bill, the publicly financed campaigns to pay for our campaign, not for deficit reduction. There it went.

This very bill that we are on when it came out of the Senate Finance Committee had a projection of how much money it would raise. By the time it got to the floor, it was reestimated, and it turns out we had $3 to $4 billion more over the 5 years than we thought. We had not spent it because we did not know we had it.

Did we use it for deficit reduction? No. As soon as this bill was on the floor, we passed an amendment to spend the $4 billion. What did we spend it for? To allow small business to what we call expense equipment. Expensing means when you buy something you can deduct the whole cost right away. You can do it up to $10,000 a year now. And we took this $4 billion and said you can go do it up to a higher amount. Is it good or bad for small business? I am not arguing that.

Did we ever think of using the $3 to $4 billion to reduce the deficit? No. Spend it.

Now, what is going to happen if we pass this bill we are now considering? And in comes $250 billion that the President says he wants to use for deficit reduction. In comes every group in America that think they have been shorted of money during the Reagan-Bush years and say: "Mr. President, we are just a small part of the whole budget. Can't you give us out of $1.5 trillion"—that is roughly our budget—"an extra $1 billion, a trifle; an extra $2 billion, a trifle?" You realize there will be hundreds of groups asking for an extra billion.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Oregon has used his time.

Mr. PACKWOOD. I will close in 1 minute, if I might.

All right. So I am saying let us look at the bill. On its face, the bill raises $250 billion and says we are going to use it for deficit reduction. Everything we have done in the past indicates when we have the money we will spend it. Maybe they will be worthy programs in the minds of the beholders. It will not go to narrow the deficit, and what this country will have are higher taxes, higher spending, and a bigger deficit.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I thank the Senator from Oregon. It is interesting to note that no matter how an issue is being approached, more spending always seems to be the norm. Whenever there is a surprise increase in revenues, there is not a welcome relief for the deficit reduction but a welcome opportunity to spend the amount that has already been forecast. So spending rises exorbitantly. That is the problem that this country faces. It is not that we are undertaxed. It is simply that we have an irresistible urge to use revenues on the horizon or projected to come on the horizon.

I yield 7 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Thank you, Madam President. I thank the Senator for yielding me that time.

THE PRESIDENT'S ECONOMIC PLAN

Mr. MACK. Madam President, my approach this morning is going a little different from what we heard from Senator PACKWOOD, and I am driven to make these comments, one, because of the hallelujah, change-is-coming approach that we read in the paper just a few days ago. It is kind of a boiler room operation down at the White House to sell the President's plan for the country.

The other reason is after listening this morning to the Senator from California and indicating about the number of new jobs that are going to be created, I think when we get down to it, we all talk about deficit reduction, and clearly that is an important thing for us to be doing, but we also are involved in this, I believe, because of our determination to create more jobs in the country.

I find the information, however, that is being suggested as to the job growth in my State to be frankly just flat unbelievable.

Each State has had an individual designated to be the point person in that State to deliver the message with respect to President Clinton's economic plan. In my State, that is Carol Browner, the Administrator of EPA.

I appreciate that Carol is assigned that job, and she will go carry out that job, but I think it put her in somewhat of an embarrassing position because Carol Browner had to go to the State of Florida and inform the people of Florida that between now and 1996 1 million new jobs are going to be created in the State of Florida—1 million. That is one out of every eight new jobs that is supposed to be created by the Clinton economic package is going to be created in the State of Florida. Do not get me wrong. The people in my State are tickled to hear there are going to be a million new jobs created in the State of Florida.

But when you start to look closely at those numbers, you really begin to question whether that is possible. Let me tell you why. The State of Florida went through a dramatic boom period in the eighties. I would suspect it may have been the fastest growing State in the Nation. Our population in the eighties, for example, grew by a third. We added over 3 million new people to the population of the State of Florida. We had a real boom period. And during that period of time, we created in the State of Florida an average each of those years of 181,000 new jobs, a dramatic growth in jobs for our State.

Now, we are being told that between now and 1996 an average of 250,000 new jobs are going to be created in an environment that certainly there is no

boom that is going on in the State of Florida today, and I do not think there is anybody who would argue that this plan that is going to raise taxes on the most productive and job-creating parts of our economy are going to create a boom. It is just not going to happen. When you look at what is being reported anyway, as to what is said, as to where these jobs are going to come from—and I am really reading from an article that was in the Miami Herald. It is an article written by Paul Anderson. The headline is "Floridians doubt job projections." "U.S. economists say state will get 1 million jobs."

It says:

Officials said projections are based primarily on the five-year Clinton budget plan's "investments for Florida," including—

And I am going to go through that list and let each person make his or her own determination as to whether these are the kinds of things that are going to create a boom environment in the State of Florida, that will increase 40 percent more jobs per year between now and 1996.

And again, these investments are the earned income tax credit, $1.4 billion; $1 billion for work, training, and education; $778 million for housing and community development; $740 million for health care and AIDS research; $659 million in highway and transit aid; $624 million in immunization and Head Start Program for children; $550 million for high-technology job creation; and $465 million, investment tax credit.

Now, I must say, I know that some people have tremendous faith in the ability of Government to take care of the problems that face our society. But I do not really think that many people would get up here and urge you that the Government can create more jobs in the private sector.

In essence, what we are being told is, because of this list of investments—most people in this country would look at that just as more Federal spending—but because of investments, we are going to create 40 percent more jobs per year between now and 1996, more than we were able to create in one of the greatest boom periods in the State of Florida that produced 181,000 jobs per year.

I am not the only one saying this. This is my perception but, as usual, the media does have a tendency to ask people outside of those of us in politics what they think.

In Paul Anderson's article—again, that was in the Miami Herald—the first paragraph says the following:

State experts Friday belittled a White House claim that an unprecedented surge in job growth in Florida would help lead the national recovery if President Clinton's budget and tax plan passes Congress.

It also went on:

But State economists said they doubt that forecast, especially since Florida averaged a gain of just 181,000 jobs a year during the booming 1980's. Actually, the State has never seen the kind of job growth that the Clinton administration is projecting.

They went on further:

"I'd be skeptical. * * * That's way above and beyond the experience we've had," Carol West, from the University of Florida's Bureau of Economic Business Research, said of the Clinton projection . * * *

Frank Williams, of the State Legislature's Joint Economic and Management Committee, said: "Twelve percent of all the jobs [in Florida]? That sounds a bit ridiculous."

Again, the Senator from California, a little while ago, made the comment that—may I have a couple additional minutes?

Mr. WALLOP. I yield the Senator 2 more minutes.

Mr. MACK. The Senator from California made the comment a few minutes ago that we are about to arrive at the moment of truth. And I will tell you, I will be looking forward to that moment. It is about time that there was some truth spread with respect to what this economic plan is going to say, because I will charge my colleagues on the other side of the aisle with speaking out of both sides of their mouths.

On one hand, the administration goes to the State of Florida and tells us that all these jobs are going to be created. And then I see Senator RIEGLE and Senator SARBANES, in the Banking Committee, speaking with the Chairman of the Federal Reserve Bank, Alan Greenspan, and pleading with him—pleading with him—to have an accommodative monetary policy because the plan that they are about to pass is contractionary.

I mean, there ought to be, as I said a moment ago, this moment of truth. There ought to be a true statement to the American people about what this Clinton plan will do.

In my mind, that clear statement is if you raise taxes and you do not cut spending, the deficit is not going to go down, no jobs are going to be created, revenue to the Federal Government will decline, and the deficit will go up.

The kind of projections that were made in the State of Florida are incredibly misleading. I think the American people and I think the people of my State understand that and are saying overwhelmingly: "Reject that plan. Start over again. Cut spending first."

I thank my colleague from Wyoming for yielding.

Mr. WALLOP. I thank the Senator from Florida.

If Government jobs are so predictable and so numerous and so permanent, why not confiscate all of our earnings and just have the Government be the employer of first and last resort? The administration's predictions are, on their face, absurd.

In Wyoming, they are predicting 19,363 jobs. Madam President, that is the most meticulous prediction that I have heard in some time. We do not yet even have a deficit package. It has not yet been agreed on by this body. Total numbers are not even known. Yet the administration seems to know, within the last digit, how many jobs are going to be created in my State.

They are able to do so even though Wyoming's economy depends on tourism, which will be affected by a gas tax, and on agriculture, and, among other things in agriculture, grazing fees, which are about to be raised.

Mr. MACK. Will the Senator yield for one additional thought?

Mr. WALLOP. Yes.

Mr. MACK. Since the Senator was making comments with respect to the specific number of jobs, I kind of rounded off the estimate which was made for my State. Maybe it would be appropriate at this time to say what the specific number was.

In my State, it is projected 1,005,461 new jobs will be created.

Mr. WALLOP. I thank the Senator from Florida. It is clear that when Government creates jobs, they can create them to the last digit.

I yield 3 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the Chair and I thank my friend from Wyoming.

THE CLINTON TAX AND SPEND BILL

Mr. BURNS. As we get ready to return home for the August recess, Members of Congress need to remember the message that their constituents have been sending them about the Clinton tax and spend bill.

The more folks learn about this tax bill, the less they like it. This bill will impact American families at home and at work, and I think they have a right to know what kind of taxes are being foisted on them.

That is why I was so concerned to hear that administration officials were instructed to change the subject or hold off on details when asked about the package. We keep hearing how good this bill is.

Well, if this package is so wonderful for the economy and for the people of this country, then why avoid talking about what is in it?

I can tell you why: It is because this bill does not cut spending first. It is because this bill raises taxes. It is because this bill flies in the face of good economic sense.

The $500 billion in real deficit reduction will probably not be achieved under this bill. Many of the spending cuts in the bill would have occurred anyway and should not be counted in the $500 billion figure.

And I know I have said this before, but most of the cuts will not take place for several years. The good intentions may be there, but I have been in Congress long enough to know what happens to good intentions. They are somewhere in the twilight zone.

However, the administration is still counting these future cuts—as well as

a reduction in the rate of interest—as spending cuts. In fact, these two figures make up half of what is considered as spending cuts.

I have not been in the Senate that long, but I do remember the 1990 budget summit. I remember the promises of tax increase for a reduction in the deficit. It did not work.

Hardly 3 years after the summit, here we are again. And instead of getting a proposal that contains real and substantive changes, the American people are being served warmed over gimmicks, distortions, and taxes. This is not the change that Americans were asking for.

I do not know whether all of us go home and talk to the same people or not, and because we drive through a county does not mean we stopped and visited with the people in that county.

As we prepare to go home in August and visit with our constituents in our respective States, I am sure we will hear the same message that we have been hearing for the last couple of months: The more people learn about what is going on in this tax bill, the more sunshine that is cast on it, the more skeptical they become of what it can do, especially in the area of the taxes that are about to be foisted upon them.

That is why I am concerned to hear that administration officials were instructed to change the subject or hold off on the details about their package. And we keep hearing how good the bill is: Hallelujah, good news is coming.

Well, in an area where we are talking about, yes, Government policy, talking about taking lands, withholding lands, doing things to mining and grazing and recreation, gas and oil production—if any other industry had gone through the traumatic cutback in employment in the last 10 years that our oil and gas and energy industry has taken, there would be a national emergency with everybody on this floor trying to figure out a way to deal with it. Yet, they want to do that.

And then they say, "We are going to create new jobs." The new jobs, my friends, will come in the area of Government, and that means more spending by this Government.

Now, where is the money going to come from? Nobody is out there generating it. Somebody productive has to generate funds in order to pay taxes.

So I can tell you why they have been avoiding talking about the specifics of this package. It is because they do not cut spending first.

And I think the Senator from Oregon made a very good case that every time we raise taxes, we also raise spending. That is the intent of this President. If you doubt that, then look on the front page of the May 14 Washington Post, when he was happy about his package passing the Ways and Means Committee in the House of Representatives, and he said that this will give us more revenues so that we can spend more.

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

Mr. BURNS. I ask for 1 additional minute to wrap up.

Mr. WALLOP. Will the Senator take 30 seconds, please?

Mr. BURNS. I can do that.

The $500 billion deficit over the next 5 years I doubt can be reached with this package, because there is nothing in here that will say cut the spending first, then show us a way to do it, and put it down in stone so that we can do it.

I thank my friend from Wyoming for allowing me this time.

I yield the floor.

Mr. WALLOP. I thank the Senator from Montana.

Madam President, I yield 7 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

THE ECONOMIC PACKAGE

Mr. NICKLES. Madam President, I wish to congratulate my friend and colleague from Wyoming for his speech earlier this morning, and also for trying to get some facts out to the American people.

In my opinion, the economic package, the so-called tax bill that is now in conference, is probably one of the most important pieces of legislation that we will have certainly in this Congress and maybe in several years.

I also think it is important that we get the facts out on the package, and, Madam President, I will try to do that in just a few moments.

I have heard the President say we need to have at least $1 in spending cuts for every $1 in tax increases. This package in both the House and the Senate falls way short of that goal. The facts are the tax and user fees are about $258 billion and the spending reductions are only $121 billion. That is over 2 to 1 in tax and fee increases for every dollar in spending cuts. We already have $44 billion in existing law. I do not think the President should take credit for that. That was part of the 1990 budget package. It also has $53 billion in interest savings. I know the President and others are thinking that interest rates will continue to decline, but with short-term interest rates at a little over 3 percent and long-term rates a little over 6 percent, I do not know how much further they will decline or can decline.

If we look at the facts, what about the spending cuts? When do they come? This is kind of interesting. In the House Democrat package there are no spending cuts in 1994, and after we pass the supplemental to aid the victims of the flood disaster, certainly there will be no savings in 1994.

If we look at 1995 and 1996, there are almost no spending cuts. It is interesting to note, though, that about 84 percent of the spending cuts in the House package happen after the next Presidential election. This is in 1997 and 1998. Think of that. I have already said the tax increases far exceed the spending cuts, but the spending cuts do not even happen until 1997 and 1998. I have given credit for the so-called caps that are in both the House and Senate packages right now, and that is a stretch of the imagination because right now we are going to pass an urgent supplemental to help the victims of flood disaster. That does not count toward the budget; it is an emergency. We did not count unemployment extension; that was an emergency. Frankly, we are going to spend a lot more money than what we have called for in the budget because we declare a lot of things emergencies.

So the facts are, of the spending cuts that are in this package that are right now scheduled, 84 percent in the House-passed plan are not until after the next Presidential election. In the Senate bill it is a little better but not much. We say we have a little savings in 1994, but, frankly, those are exceeded by the urgent supplemental that probably will pass this week or next. In the Senate-passed package, as far as total spending cuts, we see about 79 percent of the spending cuts do not happen until 1997 and 1998. Again, we give full credit for the so-called caps. Frankly, I doubt most of that spending cut will happen. That is the same $44 billion we took credit for in 1990; that is a cap the administration wanted to take credit for again.

Let us look at the ratios. Under the Senate plan, if you totaled everything together, we had $357 billion of tax and fee increases and only $121 billion in spending cuts. That is about $2.11 in taxes for every $1 in spending cuts, giving credit for caps we are placing on appropriations bills for the year 1997 and 1998, which, again, we avoid those caps just by a majority declaring an emergency. So it is not hard to get around those caps. Yet, I am still giving credit for $110 billion in spending cuts under the caps.

Given that, you find in the first year there is over $28 in tax increases for every $1 in spending cuts. In the second year there is almost $9 of tax increases for every $1 of spending cuts. In the third year, 1996, it is $2.66 of tax increases for every $1 of spending cuts.

Again, we realize this thing is loaded on the front end toward taxes. As a matter of fact, the conferees have already decided that some taxes are going to be retroactive. We are going to notify many people in this country their taxes are retroactive. Their tax increases have already happened even though withholding has not gone up, and they are really going to get hit with a heavy tax increase next year, and many people are going to have to borrow money just to pay for it. I mention that.

Just to compare it with the House plan, it is even worse. They have no spending cuts in the first year, so there is no ratio. It is all tax increases in the House bill in 1994. In 1995 it is almost $18 in tax increases for every $1 of spending cuts.

Madam President, my point is I do think we have to get to the facts. I think the American people need to know what Congress is negotiating right now. I think people need to know and remember that President Clinton said, no, we are going to have a tax cut for middle-class people. Frankly, there are a lot of tax increases in the package that is being negotiated right now on middle-class America. I am talking about the energy tax, which not only is middle class, it is also low-income class. That includes people making the minimum wage. That includes 17-year-olds who are barely getting by that maybe have a part-time job that are making $4 or $5 an hour. I have a daughter in that category. Her bill is going up. So it is low income, middle income, senior citizens on Social Security who have income over $32,000. They get hit with a tax increase as well. Their Social Security income tax goes from 50 percent to 85 percent. That is middle income, and they get hit with a heavy tax. And, remember, President Clinton said he was opposed. He wanted to give middle-income taxpayers a tax cut. Instead, he gives them a tax increase.

During the campaign, he said he was against a gasoline tax increase. That is one of the things that seems to be agreed upon: Yes, we have to have a gasoline tax. Exactly the opposite of what candidate Clinton said about a year ago.

Madam President, I am concerned about this package, one, because it has had a lot of false advertising, because people are running around the country saying, "Hallelujah, happy days are here again," we are going to get more money from the taxpayers. That concerns me, not so much about the political rhetoric, but what really concerns me is it is going to hurt the economy. Instead of creating 250,000 jobs in Florida, I think it is going to cost jobs. The package hits small business, it hits a lot of entrepreneurs, and hits people who cannot afford it. Frankly, it is going to put people out of work. This is the net result of President Clinton's package, and that is the package that is in the process of being passed right now.

I thank my friend and colleague from Wyoming.

Madam President, I ask unanimous consent two tables I referred to regarding the Senate and House plans be printed in the RECORD, and I yield the floor.

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

Year	Tax hikes	Spending cuts[1]	Tax/spend ratio
Senate plan:			
1994	$36.9	$1.3	$28.33/$1
1995	8.8	4.4	8.79/1
1996	52.5	19.8	2.66/1
1997	65.7	38.8	1.69/1
1998	63.8	57.6	1.11/1
Total	257.7	121.9	2.11/1
House plan:			
1994	34.9	−1.1	NA
1995	44.0	2.5	17.66/1
1996	58.4	15.1	3.86/1
1997	76.8	34.6	2.22/1
1998	75.9	51.9	1.46/1
Total	290.1	102.9	2.82/1

[1] Accounts for the Democrats' promised reduction in the rate of appropriations spending growth over the next 5 years in all programs, including those outside the scope of the tax-and-spend plan. Pertains also to column on back page.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I yield 3 minutes to the Senator from Washington.

FACTS ABOUT THE TAX BILL

Mr. GORTON. Madam President, I deeply appreciate the great work of the Senator from Wyoming in continuously doing all he can to bring the facts about this tax bill before the people of the United States. It is a paradox that, while behind closed doors a group of Democrats is discussing perhaps the largest tax increase in the history of this Nation, here on the floor of the U.S. Senate we are in the process of debating a bill for a very, very large, open-ended, new spending program. So any protests that we are not dealing with a tax-and-spend administration have absolutely no validity, and no amount of propaganda or public relations can change that fact.

This tax bill will not create jobs. As the Senator from Wyoming has already pointed out so eloquently, it will destroy jobs. That has been the experience of every other major tax increase in the history of this country. This tax bill will not produce the revenues that it is designed to produce because those who are hit most heavily by it will change their patterns of behavior, incidentally—not at all incidentally, perhaps—destroying job opportunities in the process, in order to avoid these punitive new tax rates.

It is also a paradox, I say to my friend from Wyoming, that while this bill is being discussed behind closed doors so the people of the United States will not know the details until the last minute, perhaps until after it is passed, it is almost certainly the case that, if this Senate voted on it in secret, it would be overwhelmingly defeated, perhaps by a vote of some 70 to 30. Yet, the impact of peer pressure will outweigh ideology, common sense, and the desires of the constituents of most of those who will vote in favor of this proposal.

If I can add anything to this debate, however, it may be this: It has been reliably reported in the last 24 hours that support for this proposal in the Senate is leaching away, is eroding. The Members on the other side of the aisle who voted against the bill as it passed the Senate in sufficient numbers so the tie-breaking vote had to be cast by the Vice President of the United States, all seem to like the proposal that they see in the conference committee even less than the one they voted against earlier. And several other Members from the other side of the aisle seem in the process of taking the same position.

This Senator must say that requires a great deal of courage, to put the good of the country and the desire of their constituents above the agenda of the President of the United States, as variant as that agenda is, from what he talked about in his campaign.

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

Mr. WALLOP. I yield 1 more minute to the Senator.

Mr. GORTON. But it now is possible that common sense will prevail and that this proposal will be defeated. I believe that will benefit the President of the United States. If it causes him to come back to move to the political center, really to set up a proposal which cuts spending first and deals modestly, if at all, with tax increases, there is little question but that he could receive a bipartisan majority for a program which truly benefited the country, really would reduce the budget deficit in the long-term and would actually create rather than deprive the people of the United States of jobs, opportunities, and a bright future.

That is a consummation devoutly to be hoped but can only be presented to us by the action of courageous Members on the other side of the aisle in rejecting this unhappy proposal.

Mr. WALLOP. Madam President, I thank the Senator from Washington. Let me say that I quite agree. Earlier, the Senator from California took pains to quote Federal Reserve Chairman Greenspan, but only from the headlines in the papers about what Mr. Greenspan said and not the specifics of what he said.

Some of the more telling comments by Chairman Greenspan focused on the words "productivity" and "growth." He stated that productivity growth is the only source of lasting increase in real incomes and risk-taking is crucial for a vital and progressive economy. In fact—I quote—"it is a necessary condition for wealth creation."

I ask the Senator from Washington, have we not a circumstance in which risk-taking is virtually eliminated from the options available to small business, and the creation of real wealth is eliminated by all kinds of taxes that are levied against productivity?

Mr. GORTON. I think it would be appropriate to entitle the bulk of the taxes with which we are faced as, taxes on risk; very, very heavy taxes on risk,

so heavy that many risks, many investments will not be made.

Mr. WALLOP. I thank the Senator. I will point out that many in the Senate were not here 2 weeks ago when the Senator from Utah explained how current capital gains taxes made captive the investment of a venture capitalist in a business he started. Although he could have put money in a new venture that was forecast to grow at 25 percent, he was unable to do so because of the capital gains taxes. He was actually better off to leave it in a much slower original investment than to try and move it.

That result just simply denies the greatness of small business. It is small business, not big corporations, that create much of the growth in this country. And the penalty on small business capital that is contained in the tax package passed by the Senate is appalling. The Senator from Washington is absolutely right when he says this bill, like the 1990 deal, will not produce revenues.

Mr. GORTON. Will the Senator yield?

Mr. WALLOP. I will be happy to yield.

Mr. GORTON. Has it not been demonstrated by the actual figures of tax collections during the course of the 1980's and the beginning of the 1990's, that lowering marginal tax rates increases actual tax collections from the persons whose rates have been lowered, and that increasing marginal tax rates cuts the revenue received from exactly those taxpayers?

Mr. WALLOP. The Senator is correct. The statistical evidence shows that the taxes raised from the "wealthy"—an abominable term the administration has used to create the politics of envy—actually decreased, while the taxes collected from the middle class actually increased.

As Paul Gigot pointed out in his column in the Wall Street Journal a few weeks ago, it is hard to imagine the rich had a bad year and everyone else had a good one. The fact is that the Democrats, by and large, seem to believe that revenues are generated as a direct consequence of rates, whereas Republicans seem to believe, by and large, that revenues are generated as a direct consequence of growth. And any tax program that inhibits growth—and I would again quote the three econometric studies cited by the Senator from California—each of those predict a contraction of the economy and so, too, does the chairman of the Senate Banking Committee, who has begged the Chairman of the Federal Reserve not to raise interest rates for the very reason that he knows the program before us is contractional.

As the Senator from Washington has pointed out, some in the Democratic Party, with great courage, are beginning to say that this package is not good for our country, nor is it in the long run good for their President. Do you agree?

Mr. GORTON. That is certainly a fair summary of the remarks of this Senator who infers the views of those Senators on the other side of the aisle, but greatly respects them because of the courage that expressing those views requires.

It is this Senator's belief that that handful, perhaps a dozen or fewer Members of the Senate on the other side of the aisle who are seriously considering a rejection of this proposal because it would hurt the country, do hold the fate of the Nation and its economy in their hands. They, paradoxically, are probably better supporters of the President than are those who willy-nilly follow down the road of passage of a tax bill which will have such negative consequences on our economy.

Mr. WALLOP. I thank the Senator from Washington. Maybe, after looking at the impact this program will have on the economy—and the figures do not lie, Madam President—it is time to examine closely the lowering of capital gains taxes. The rich are not the beneficiaries of lower capital gains because their capital can stay in place and return income. Rather it is the investment capital of small businesses, the risk-takers, that gets frozen by the current tax system and which will be even more deeply frozen by passage of this tax package. It will become the glaciated age of investment capital if we pass the capital gains surtax proposed in the Senate bill.

Madam President, I will just examine for a minute how it is in my State, which is the largest per capita small-business State in America and where the administration claims that their tax increases will create 19,363 jobs, that we can have job growth if we increase taxes on small business. They are the businesses who will employ the people of my State.

We know that it is false when the administration makes unsubstantiated claims that only a tiny portion of small businesses will be affected by income tax rate increases.

We know that their claims are false when the vast majority of the .5 million small businesses employing more than 1 person will be hurt by the new taxes. These are the very businesses responsible for providing the majority of new jobs created in this country.

But do not take our word for it. Take the word of the small business owner who is uniformly opposed to and hostile to this plan. The July survey of small business owners by the NFIB found that only 3 percent of them supported Clintonomics; 82 percent are opposed. There has been a 51-percent drop in the confidence of the economy, and that very same survey found that 40 percent of all the small businesses surveyed said they would likely lay off employees if this plan passes. Fifty-seven percent of them said that they would hire fewer employees.

Now, the economy and businesses are responding to this tax plan with fear. And their fear is well-placed, because instead of being concerned with expanding their business, they now must be concerned with staying in business. Madam President, small business confidence is at its lowest level since the trough of the recession, and you have to wonder why.

Madam President, there are other fallacies with the tax package. One of them is that the plan will raise the revenues claimed. As you may know, the Joint Committee on Taxation and the Treasury are loath to ascribe to taxpayers any human response to increased taxes, such as the response exhibited by the President's wife, who took her compensation from her law firm last year rather than have it come to her this year and be subjected to new taxes.

This was a human response and there is nothing illegal with it. It is perfectly acceptable to take actions to lower taxes. But the Joint Tax Committee does not take into consideration perfectly rational human reactions. For example, they say that a reduction in the capital gains tax rate, even when there are $7 trillion of locked up capital in the system because of the tax structure, will actually lose money. If $1 trillion of these pent up gains were put into the economy, Madam President, think of the growth that would take place in this country. Think of the capital that would be available for new business ventures. But these monies cannot be put back into our economy because our tax structure, created under Bush and to be exacerbated under Clinton, penalizes those who would take a risk.

The administration has finally found one way, however, to avoid the human response, and that is the retroactive increase in inheritance taxes. One thing you cannot do, Madam President, is undie. You cannot, like Lazarus, come back from the dead to rearrange your estate. So by retroactively applying estate taxes, they have finally, finally, finally found a tax that can have no human response.

Madam President, let me just conclude by saying that it is important for Americans to realize the issues at hand. First, we have a program that is heavy on new taxes and very light on spending cuts. Even if the program worked perfectly, over the 5-year period of the program, spending cuts will never match the tax increases. And it already has not worked perfectly because some of the new revenues are being spent without any attempt to pay for the new expenditures.

Second, we have an American public which is saying cut spending first, which is saying allow the economy, allow the ingenuity, allow the entrepreneurs of America to produce the

jobs that create the wealth that will create the revenues. Jobs created by Government may change the employment statistics for a period of time but in the end they only add to the deficit and will stop when the program is over. Jobs created by the wealth of the private sector in America are the jobs that will survive and provide the revenues for Government to continue to take care of the education of its people, the health of its environment, and, in particular, the catastrophes like those which have just happened to the people who live along the Mississippi.

Madam President, I yield back the remainder of our time.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Is leaders' time reserved?

The PRESIDING OFFICER. Leaders' time is reserved.

PARTISAN ATTACKS ON CONGRESSIONAL REPUBLICANS

Mr. DOLE. Madam President, President Clinton made big headlines with his partisan attack this week on congressional Republicans. He accuses us of destruction, delay, and gridlock. He even recycled the Democratic favorite campaign gimmick of blaming all America's woes on the past 12 years as if the Democratic tax-and-spend Congress was somehow on vacation the past 12 years.

For the President's benefit we ought to keep the record straight, and whether he appreciates it or not Republicans have cooperated with him in hundreds of ways, and we will continue to do so as long as he proposes mainstream, common sense legislation. When he is pushing programs that tilt to the extreme, when he is demanding taxing and spending that is totally out of control, and when he is using political gimmicks to shift focus away from his liberal agenda, then the American people have a right to an alternative voice in Washington.

And let us face it; as much as the liberal cheerleaders in the media would like it, neither I nor any of my Republican colleagues were elected rubber stamps for this or any President. When we have basic philosophical differences, when we believe a program will be bad for America, we owe it to our constituents to speak up. After all, only 41 percent of the American people in a new poll approve of the President's performance. I think it is largely based on the economic package. That leaves a big majority of the people who are looking for a responsible alternative to the Clinton agenda and people who are not interested in a one-party monopoly.

It is kind of ironic that President Clinton would resort to blaming Congress when during last year's campaign he chastised President Bush for his attack on gridlock. On August 27, 1992, in San Antonio, candidate Clinton said, "The other thing the President did a great job of was blame Congress. It's all Congress' fault. If I said such stuff like that when I was a little boy, my mama would have spanked me. But," he said, "you know, what do you expect me to do? I'm just the President of the United States. Those mean old people in Congress, they won't do anything." He was talking about President Bush. Again, that was candidate Bill Clinton, who as President Bill Clinton seems to like the strategy of bashing his congressional opponents after all.

So let me repeat, it was candidate Clinton who said, "The other thing the President did a great job of was blame Congress." He was talking about President Bush. He said, "It's all Congress' fault. If I said stuff like that when I was a little boy, my mama would have spanked me." He now is the President blaming everything on Congress.

Perhaps the best opposition to the loyal defense responsibility was offered by the distinguished Senate leader, when he said, "I think it is a curious standard of bipartisanship that has been suggested here. The President insists that we adopt his plan"—this is my friend and colleague, the majority leader, when President Bush was President—"The President insists that we adopt his plan. That is, according to discussions recently held, not partisanship. The other party would like to see their plan adopted. That is called partisanship. Why is it bipartisan for the President to demand that his plan be adopted but partisan for the other party to demand that their plan be adopted?"

I would say the same thing. Do we live in a monarchy? Is the President the President or is the President a king? Are we required by some law to accept whatever the President proposes without any opportunity for discussion, debate, suggestion, or constructive alternatives? And if we disagree with some aspect of the President's plan, if we believe it is truly and sincerely harmful to the long-range interests of the country, are we somehow obligated to stand silent and adopt the President's plan? And those are not BOB DOLE's words. Those are the words of my good friend, the majority leader, when we were trying to bring up Bush's economic plan.

Madam President, it is amusing when the Vice President and others now accuse Republicans of sitting on the sidelines during the budget process. The fact is Republicans have not been welcomed at all to the Democrat taxathon which is producing the biggest tax increase ever. And I guess it is probably better that we do not participate. But we are going to and have offered constructive alternatives. We will continue to offer alternatives consistent with our responsibilities.

We offered a comprehensive alternative deficit reduction plan relying on spending cuts instead of tax increases, and they can dump on it all they want. But our plan was real and offered genuine hope of getting the deficit under control and did more to reduce the deficit plan than the President's plan now being considered in the conference.

Madam President, if the President's congressional allies and his liberal media fan club want to hype up the old gridlock gimmick, they ought to at least look at the facts. As of last night, the Senate approved no fewer than 219 legislative measures and approved 223 of the President's civilian nominees for administration posts. Let me repeat. Republicans have joined Democrats in passing 219 legislative matters so far this year, and we have joined Democrats in approving 223 Presidential nominees, including his entire Cabinet. That does not sound like gridlock to this Senator.

Meanwhile, as the President uses the gridlock gimmick, the appropriation bills are moving along at high speed. In fact, Senate Republicans even entered into an unusual agreement with our Democratic colleagues to limit amendments and to have time agreements on all amendments on three crucial appropriations bills: Department of Agriculture, the legislative branch, and the District of Columbia.

Madam President, I just suggest that in addition we are going to try to be helping with the Supreme Court nominee in these next few days and with the FBI nominee. And when it comes to winning congressional approval of the North American Free-Trade Agreement, I will predict that there will be more Republicans voting for that in the Senate than colleagues on the other side.

The point I would make is the fact that to slow up legislation to try to negotiate a better bill that we think is in the interest of the country does not mean that we are engaged in gridlock, does not mean there is some filibuster going on.

And I must remind the media from time to time that they ought to take a look at what a filibuster is all about, and they ought to give us credit for trying to make some of the legislation sent up here a little better, a little tighter, less expensive, less costly, so that we will not be raising taxes again later on this year or next year because of all the spending programs passed by this Congress.

THE REPUBLICAN PARTY

Mr. DOLE. Madam President, as the Republican leader, obviously I have some responsibility to my party. And it was not all that long ago the liberal media was reading the last rites to the Republican Party. After all, the Democrats control the White House, they control the Senate, they control the House, they control most Governors, they have a lot of State legislatures.

One thing we have learned over the past few months is that Americans are having second thoughts about giving the Democrats control over their pocketbooks. As Mark Twain said, the reports of the death of the Republican Party have been greatly exaggerated. No doubt about it—the Republican Party is alive and well, and on the move from one corner of America to the other. It started last November in Georgia with the election of PAUL COVERDELL to the U.S. Senate, then in Texas where KAY BAILEY HUTCHISON won a historic record-shattering victory, and in Los Angeles the first Republican mayor in three decades; and also in Wisconsin, California, and Mississippi where Republican congressional candidates far exceeded expectations where their districts had overwhelming Democratic majorities.

Today there is new hope for Republicans—not Hope, AR—but hope in Arkansas where voters have chosen Republican Huckabee as their Lieutenant Governor. The Huckabee victory was only the fourth time in this century that a Republican had been elected to an Arkansas statewide office.

So, Madam President, from Los Angeles to Little Rock, the American voters are sending messages that they want competition between the parties; that the days of one-party rule are over. And more than winning elections, the Republican Party is also winning on the issues.

The American people understand that we are the party of the taxpayers, that we are the party of the working man and woman, that we are the party that wants to cut spending first—and come this fall in Virginia, New Jersey, New York City, in my view, they will also unite behind Republican candidates and Republican solutions.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PUBLIC DIPLOMACY IN THE PACIFIC CENTURY

Mr. BENNETT. Mr. President, the bipartisan U.S. Advisory Commission on Public Diplomacy has, for many years, been a source of sensible advice on how America should conduct its public diplomacy. I am talking about U.S. Government international broadcasting, educational exchanges, and information programs at U.S. missions abroad.

This Commission has now issued a recent report called Public Diplomacy in the Pacific Century. It is a timely and thoughtful study, reminding us of the importance of our relations with East Asia and the Pacific. It discusses the vital role of public diplomacy in encouraging support for U.S. policies and mutual understanding with countries in that region.

The Chairman of this Commission is Tom Korologos, well known to many Members of this body, having once served here on Capitol Hill as a staffer. I commend Mr. Korologos and his colleagues for this report, and commend the reading of it to our colleagues. It is very brief.

I ask unanimous consent that the report be printed in the RECORD at this point.

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

[U.S. Advisory Commission on Public Diplomacy]

PUBLIC DIPLOMACY IN THE PACIFIC CENTURY

No region of the world is more important to America's long-term prosperity and security than East Asia and the Pacific.

Public diplomacy should be a central component of a national strategy to promote vital long-term U.S. security and economic interests in Asia.

Governments and public opinion in Asia generally favor greater American involvement, creating a window of opportunity for expanded public diplomacy.

U.S. Information Agency programs are a highly cost-effective means of encouraging support for U.S. policies, a dialogue with Asia on shared concerns, and mutual understanding.

The following public diplomacy activities should be strengthened:

Television, which is becoming the dominant information medium in Asia;

Field staffing and training;

Exchanges, such as Fulbright scholars and International Visitors;

Outreach to Asian students in the U.S.;

Coordination with private and public organizations operating in Asia;

Radio broadcasts to Asian countries denied free media;

Programs with major potential, including book translations, library services, "Study of the U.S." projects, speakers, environmental efforts, and English teaching;

Communications technologies: dish antennas, two-way video systems, and digital compression.

Funding should be provided through a redirection of assets within the USIA, defense, and international affairs budgets.

No region is more important to America's long-term prosperity and security than East Asia and the Pacific. And nowhere are America's foreign policy goals of open market economies, a strong defense, and support for democracy more relevant or interrelated.

Economics and Trade.—If current economic and trade trends continue, the 21st century will be the "Pacific Century."

The world's fastest growing economies, the largest U.S. export markets, and the largest U.S. trade deficits are in East Asia. The International Monetary Fund ranks China's economy in third place worldwide, behind the U.S. and Japan.

Security.—Three times in this century Americans have fought major wars on Asian soil. Today the United States is widely viewed in the region as an essential balancing force, a guarantor of peace and stability in a part of the world where territorial disputes, nuclear proliferation, civil war, and other risks of military adventurism warrant U.S. vigilance and readiness.

Building Democracy.—Asian governments range from old-line Communist tyrannies to full-fledged democracies. The U.S. must encourage the development of democratic institutions, human rights, and more open, pluralistic societies. To do this effectively, our support for democracy building requires a knowledge of and sensitivity to the history, culture and language of these countries, and a willingness to listen to divergent viewpoints.

INCREASED ATTENTION NEEDED

In recent years, East Asia has not received sufficient high level attention from the U.S. government. The exception is when trade or policy disagreements emerge. U.S. concerns in the region, however, extend well beyond short-term disputes. The shape of the post-Cold War world will depend as much on U.S. relationships with Asia as it does on peaceful and democratic reforms in Europe and the former Soviet Union.

Recent statements by senior U.S. officials indicate a heightened awareness of the need to project a greater U.S. presence in Asia, a focus this Commission greatly encourages.

Asian nations are reassessing their relationships with other countries and the value of increasing regional investments and alliances. In the past, policies were formed largely in a bilateral context; today multilateral ties are becoming more important. The U.S. must be an active participant in this process or risk losing influence in the region.

Countries in Asia are concerned about the staying power of the United States. Governments and public opinion in the region generally favor a sustained American security and economic involvement, creating a window of opportunity for public diplomacy programs.

USIA PROGRAMS

U.S. Information Agency programs—educational and cultural exchanges, press and information activities of U.S. missions abroad, and television and radio broadcasting—encourage support for U.S. policies, a dialogue on shared concerns, and mutual understanding. This programming is cost-effective, all the more so in a time of major cutbacks in our defense and foreign affairs budgets.

The Commission recommends strengthening the following activities:

Television.—The communications revolution is fully underway in East Asia with phenomenal growth in satellite TV, home dishes, VCRs, and cable systems. Increasingly television is becoming the region's dominant medium for news, information and entertainment.

Insufficient vision, funding, and planning continue to limit the U.S. government's use of this powerful medium, especially the potential of instant-access satellite TV.

The U.S. should purchase time on regional satellites with direct-to-home capability,

such as AsiaSat, with a footprint spanning 38 countries from Japan to the Middle East. USIA should produce and acquire a mix of programs in English and local languages that provide an appropriate blend of news, information, and features. Research studies of audience and media trends are essential in efforts to develop programs and marketing strategies.

The Commission welcomes the strategic planning unit recently established by the Bureau of Broadcasting. However, the public diplomacy potential of television will only be realized through strong leadership at the highest levels, additional resources, and cooperative planning by field officers and all major USIA elements.

Staffing and Training.—Field officers are central to the effectiveness of public diplomacy. American and foreign employee staff increases are necessary if USIA is to undertake program expansion in East Asia and the Pacific.

Field officers should be well trained, not only in the languages and cultures of the region, but in economics and information technology. Training to upgrade their competence and professional skills is an investment in the future.

Exchanges.—Exchanges, such as Fulbright scholars and International Visitors, are among the most effective public diplomacy programs, and a means for building personal and institutional relationships that enhance mutual understanding.

To be competitive in East Asia, more Americans should speak the languages of the region and understand the nuances of Asian cultures. While more than 40,000 Chinese and 40,000 Japanese study in the U.S., less than 1,000 Americans study in China and 1,400 in Japan. Expansion of exchange programs will increase the number of Americans teaching and studying in East Asia and of Asians coming to the United States.

Student Outreach.—There are some 200,000 students from the region at American universities. The great majority are here under private auspices, and are a plus for the American economy. Campus and community outreach activities provide these students with a deeper appreciation of American institutions and culture, which complements their classroom learning. These programs should be increased.

Other Organizations.—Many organizations are involved in East Asia, among them the U.S. Agency for International Development, the Asia Foundation, the National Endowment for Democracy, and the Smithsonian Institution. Of special relevance is the East-West Center, which receives USIA funding and where a career officer is assigned as diplomat-in-residence. Washington and field staff should consult regularly with such organizations to explore opportunities for joint programming and to avoid duplication.

A computerized database could provide the means to share information about what these organizations and USIA are doing in East Asia. The Agency should consider adding this capability to its pilot computer projects.

Coordination with Defense.—The role of the U.S. military abroad is changing in the post-Cold War world. More and more, military responsibilities include UN peace-keeping, disaster relief, civil-military relations, and other activities with a significant public affairs component. Increased coordination between USIA and the Department of Defense is essential—in Washington, at the U.S. Pacific Command, and at U.S. missions abroad—and will help develop the military's awareness of the impact of public opinion and foreign media.

The current Memorandum of Understanding on joint programming between DOD and USIA was signed in 1983. The agreement is being revised to reflect the changing times. The Commission urges this be done quickly.

Field Programs.—The Commission recommends increased funding for textbooks and book translations, "Study of the U.S." projects, speaker programs that send American experts to Asia to meet with counterparts, and environmental protection efforts. These and other field programs have proven value in East Asia.

USIA's library services in Asia are highly effective in communicating democratic values and information about the United States. Their role as technologically advanced reference centers with computer-based data systems should be emphasized.

In Asia as elsewhere, there is keen interest in learning English, the predominant language of international commerce and science. USIA's English teaching activities sustain this favorable trend and help develop greater understanding of the United States.

Radio.—Although television is increasingly the medium of choice in Asia, shortwave and AM/FM radio remain vital to U.S. interests. U.S. broadcasts to Asian countries denied free media should be enhanced. New and replacement transmitters are needed to guarantee a delivery capability into the 21st century.

Technology.—USIA's programming must keep pace with new information technologies. Field use of computer systems has not been given sufficient training, funding and technical support. Dish antennas receive VOA and Worldnet broadcasts, and should be purchased for Asian posts that, remarkably, still do not have them.

Two-way video systems should be installed at selected Asian posts for teleconferencing, which would be useful to other embassy elements and could serve as models for USIA posts elsewhere. The Commission supports efforts to achieve cost savings through state-of-the-art digital compression technologies.

Looking ahead, the public diplomacy implications of the new would of interconnected digital systems—computers, television, fiber-optic cable—call for imaginative planning.

FUNDING

America's best small investment, high yield approach to East Asia and the Pacific today is public diplomacy.

Continuing reductions in USIA's field programs and staffing—activities unprotected by Congressionally-mandated earmarks and dedicated appropriations—have substantially eroded the effectiveness of what is really the heart of public diplomacy. Since 1985, USIA's operations in East Asia have been cut an average of 12 positions and a million dollars annually. This cannot continue.

To maintain core programs and fund selected enhancements, the Commission recommends redirection of assets in the defense and international affairs budgets. Within the USIA budget, additional funds could be attained through termination of TV Marti, which is not cost-effective. Asia's importance also may require difficult but necessary redistribution of assets from USIA's other regional operations. Additional funds could be obtained from cancellation of the Israel shortwave transmitter project.

HIGH LEVEL U.S. EFFORT

Public diplomacy in East Asia should be a central component of a national strategy to promote vital long-term U.S. security and economic interests in this dynamic region. To provide the coherence and high level commitment national needs require, direction should be set by the President working with Congress.

USIA's programs can make a difference. The Commission is convinced they are a wise investment in the nation's economic prosperity and national security. The stakes are high, and the benefits to Americans from a coordinated public diplomacy effort in East Asia and the Pacific are enormous. That effort should begin now.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, are we still in morning business?

The ACTING PRESIDENT pro tempore. We are in morning business.

THE PRESIDENT'S ECONOMIC PLAN

Mr. SARBANES. Mr. President, I understand that only a few minutes ago on the floor of the Senate, the distinguished Senator from Florida, [Mr MACK], made reference to the exchanges that were held in the Banking Committee with the Chairman of the Federal Reserve, Alan Greenspan, and sought to use those exchanges in an effort to discredit the President's economic plan, which I very strongly support. They have cited myself and a colleague as seeking an accommodative monetary policy in order to adjust for the plan.

Let me be very clear about what is happening. What the other side wants to do is protect the wealthy from making any contribution in order to address the deficit problem. Instead of asking the wealthy to pay their fair share, they want to hit harder the elderly with respect to health care costs and middle-income people with respect to a number of programs that are important to them—education programs, health programs—as a way of getting at the budget deficit. I assume they are not asserting that the deficit is not an important problem which we have to address.

The President has a very balanced program in order to do that, and he is asking a lot of different sectors to make a contribution in order to reduce the deficit. Unlike the past 12 years, the President is not asking only working, middle-income people who have borne the brunt over most of recent years to contribute to deficit reduction. Instead he especially asks the people at the upper end of the income

scale who have benefited enormously by the economic policies of the last 10 years to pay their fair share.

We have pressed the Chairman of the Federal Reserve very hard to get a monetary policy that accommodates this fiscal policy so that the total economic policy is going to contribute to growth and jobs. We believe that trying to get at the deficit in itself will bring a sense of renewed confidence in the workings of the economy, which will provide an impetus to economic activity and economic growth.

Everyone who has examined this problem says you have got to do something about the deficit. The other side, I assume, says we need to do something about the deficit, but they do not want the very wealthy to make any contribution toward it. So they are screaming to high heaven about the taxes which are going to be levied on the top 2 percent of the population, the people whose incomes have grown far faster than that of the balance of the population. In fact, for most of the population, their real incomes have either been frozen or shrunk over the last decade.

The Senator from Florida said we need a true statement to the American people about what the Clinton plan will do. What the Clinton plan will do is it will get our economic house in order. There has been a lot of talk over the years about doing that, but people have been unwilling to measure up to the tough actions that are required. The President has done that. He is now asking the Congress to join with him, and the President has put forward the largest deficit-reduction package in our history. How much longer can we go on running these large deficits and adding to the overall national debt? And, of course, the more we build up the national debt, the more difficult we make the deficit problem, because we have to pay the carrying charge on that large debt which now has escalated from less than $1 trillion when President Carter left office to over $4 trillion when President Bush left office—quadrupled in 12 years' time.

The President is trying to address this with a very balanced, comprehensive deficit-reduction program, over half of which is spending cuts. The balance of it seeks to raise revenues, but 80 percent of the revenues will come from the people at the top 2 percent of the income scale.

I think this is a balanced program. We do need along with it a monetary policy from the Fed which will help to provide some impetus to the economy. The theory is, if you can cut the Government deficit, you open up borrowing opportunities in the private sector in order to make investments. But those opportunities are going to be diminished if the Federal Reserve raises the interest rates and makes the cost of that borrowing more expensive. So you need a comprehensive, coordinated economic policy, and that is what the President has laid out for the country.

The President then concludes—and I agree with the President—that if we can have a balanced fiscal and monetary policy we are going to have job growth; we are going to have economic growth and job restoration; we are going to be able to bring our budget deficit down, and we will be able to make some investments in the future strength of our economy.

So, I very strongly support the program that the President has advanced. I think that the President has leveled with the American people about the problem that we confront, and it seems to me that the criticisms that are being made do not hang together logically. They do not lay out a blueprint for how the economy is going to progress. We clearly need to bring down the budget deficit, we need to address the investment deficit, and we need to start restoring the strength and vitality of our economy.

All these complaints about the taxes that are in the President's program are essentially complaints about the fact that the people best situated in terms of income and wealth to bear some burden toward reducing the deficit are being called upon to do so, and the whole fight is to try to prevent that from happening. I just submit to you there is no fairness or equity in that. The people at the very top of the income scale ought to play a part in helping to reduce this budget deficit with which we now find ourselves confronted.

I yield the floor.

AGRICULTURE APPROPRIATIONS

Mr. HATCH. Mr. President, much of our debate on H.R. 2493—perhaps too much of our debate—has centered around a provision in this bill authorizing $175 million in user fees at the Food and Drug Administration.

I think you will find no stronger advocate in this body than ORRIN HATCH for providing the Food and Drug Administration with the resources it needs to do the job. Sometimes I do differ with FDA officials over the job that needs to be done, but nevertheless I recognize that FDA has an important public health and safety mission that needs to be accomplished. And, FDA simply can't do the job if it is hamstrung by unwise budgetary constraints.

It is very clear to me that the Agriculture Appropriations Subcommittee, under the capable leadership of my colleagues from Arkansas, Senator BUMPERS, and Mississippi, Senator COCHRAN, were in a very difficult position. Faced with a 602(b) allocation dramatically lower than that of its House counterpart, I can understand the committee's willingness to examine a revenue-raising proposal advanced by the Clinton administration. The administration had, in fact, recommended that an even higher figure, $200 million, be raised through FDA user fees.

I am greatly heartened by the sentiment our colleagues from Arkansas and Mississippi expressed earlier. The distinguished chairman, Senator BUMPERS, noted that he shares the concerns several of us have raised about the wisdom of the user fee language contained in H.R. 2493, and he promised to do his very best to fix this in conference. And, the equally distinguished ranking minority member, Senator COCHRAN, made a very strong statement, echoing a similar willingness to work in conference to find the necessary funding for FDA so that the user fee language will be dropped.

In my opinion, there should be no further discussion of authorizing additional food and drug user fees at this point in time. This is not the place, nor the time, to expand the FDA user fee concept beyond the Prescription Drug User Fee Act of 1992 provisions (Public Law 102-571).

There are a number of areas in which this represents questionable public policy at best, as I will outline below:

First, extending the application of the user fee concept: Last year, the Congress authorized a new prescription drug user fee system at the Food and Drug Administration; in fact, the bill we are debating today, H.R. 2493, contains authority for the FDA to retain $54 million of those fees in order to develop the system and process new drug applications.

Although I recognize the need to speed up the horrendous timeframe for new drug approvals, and the concomitant need to provide FDA with adequate resources to meet that goal, I had significant concerns about the bill last year. Many of those concerns were addressed in an arduous drafting process that spanned several days.

A basic premise upon which a user fee is a fee and not a tax is that the fee provided must support a specific service or activity provided in return. To raise $175 million in new user fees, for all practical purposes, the FDA would have to look to either the food or the medical device industries. Extending user fees to either at this point would be extremely unwise.

USER FEES FOR FOODS?

It is questionable to me that the FDA could design a user fee for foods that would not constitute a regressive, hidden tax harmful to consumers. Unlike drugs, foods are not approved by the FDA prior to marketing, nor would anyone suggest they should be.

FDA actions with respect to foods usually involve regulatory enforcement actions to ensure that the food supply is safe or that products are not misbranded, and inspection of domestic and imported products. These FDA activities benefit the public at large.

They are not conducted for each and every product or each and every manufacturer making design of a user fee proposal impossible to achieve.

And, these activities benefit the public at large; they are aimed at making sure that the United States maintains the most safe and abundant food products in the world. In this light, it is clear that a user fee on foods would constitute a tax, a regressive tax at that which would not benefit the public.

USER FEES FOR MEDICAL DEVICES?

Let's look at another strong, viable American industry, medical devices. I oppose this bill's extension of the user fee concept to devices for a very different set of reasons.

When we considered the prescription drug user fee last year, we were looking at an FDA center that was basically strong but overburdened with too much paperwork and too few personnel. Leaving aside my concern that the process could be streamlined, I agreed to work with my colleagues to craft the user fee proposal after industry signalled that it was warranted and workable.

There is no similar agreement within the medical device community for a number of compelling reasons. One need only look at the 246-page report of my good friend in the House, Energy and Commerce Oversight and Investigations Subcommittee Chairman JOHN DINGELL, to see that the Center for Devices and Radiological Health at FDA is in great disarray. I have great confidence in its new Director, Dr. Bruce Burlington, and intend to work closely with him, Senator KENNEDY, Senator KASSEBAUM, Senator DURENBERGER, and our House colleagues, Chairman DINGELL and Chairman WAXMAN, to find solutions to the many problems the Center is experiencing.

To me, it seems unreasonable to add insult to injury by imposing a new user fee process on the Center when the underlying program has experienced so many problems and when we have not had the opportunity to consider fully the necessary corrective actions.

This is not the only reason this bill's user fee for devices would be bad policy. The medical device industry is one of our Nation's most competitive industries in the global marketplace. It is comprised of a range of manufacturers, small to large, all of which are contributing to a positive trade balance in devices. That is something we can be proud of.

A user fee for devices would amount to a tax on innovation, moving in directly the opposite direction to the path we must take for solid economic recovery. It would be a tax which would hit very, very hard at small manufacturers, discouraging their innovation and investment, possibly driving them out of business.

There are other concerns about imposing a user fee on medical devices. For example, under the new processing prioritization plan the FDA is developing, would those who pay the fees stand first in line, potentially shutting out the smaller manufacturers?

It is no secret to my colleagues that I have become increasingly alarmed about FDA's tendency to reach out its long arms to try to regulate as many things as possible. Their policies on dietary supplements are another prime example.

FDA regulation is driving up the cost of health care, which is paradoxical in light of concerted congressional efforts to hold down health care spending. The push for FDA regulation, in my view, is based on the mistaken impression that only the Government can ascertain 100 percent safety and efficacy, and further, that it is always in the public interest to do so.

Second, authority for user fees: The provision included in H.R. 2493 is based on questionable authority, 31 U.S.C. 9701, which is extremely general and which is not commonly used. This section of the statute authorizes the Government to issue regulations "establishing the charge for a service or thing of value provided by the agency." Since its passage, judicial and executive branch interpretation have clarified that it does not apply when the benefit accrues to the public at large.

Third, role of the authorizing committee: I believe it is clear from my earlier colloquy with our distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, and our esteemed ranking minority member, Senator KASSEBAUM, that the authorizing committee has significant concerns about the wisdom of the approach embodied in this appropriations bill.

Any further discussion of FDA user fees should be taken in the context of the Senate Labor and Human Resources Committee, where we can give this matter careful consideration. I feel it is inappropriate to authorize user fees in the context of an appropriations bill, without prior examination by the authorizing committee, although I recognize the fiscal constraints which led my colleagues on Appropriations to do so.

Fourth, the trade implications of user fees: A user fee for foods could be a dramatic and negative effect. If it were imposed for domestic products only, imported products would be at an advantage. If it were imposed on imported products, domestic companies that import some or all of the ingredients for their products would receive a double whammy, while the foreign exporters would only pay one fee.

I would have similar concerns if these fees were extended to medical devices, which heretofore have been an extremely globally competitive industry.

Fifth, implementation of a user fee plan is questionable: Even though the user fee proposal is in the President's budget, the details have not been fleshed out. This would be an extremely lengthy process. FDA officials admit that it would take between 18 months and 2 years to develop an implementation plan. This wouldn't even be in time for fiscal year 1994 when the $175 million in savings would be expected to accrue.

Past experience with development of FDA drug and device registration and listing requirements bear this out. In fact, I believe that the FDA estimate of 18 months for development of a user fee implementation plan could be conservative.

Sixth, the law of unintended consequences: In a strange twist, it is entirely possible that the new user fee provision in this appropriations bill could negate the prescription drug user fee program we established last year. This is true because the prescription drug user fee plan is only triggered if the FDA's appropriation rises above a certain level. The proposed appropriation of $638.3 million for the FDA salaries and expenses in this bill, the net spending after all user fees are deducted, may fall below the threshold of appropriations necessary to allow the prescription drug user fees to be collected.

Seventh, user fees as deficit reduction: Contrary to the user fee proposal we carefully crafted last year, the user fee provisions in H.R. 2493 would substitute for FDA resources rather than enhance them to improve the agency's ability to administer the law. I believe it is wrong to consider using fees as a means of deficit reduction.

Mr. President, there are so many things wrong with this provision, that it is obvious to this Senator that the FDA user fee authority must be stricken from the final conference agreement. I am heartened that my colleagues, Senators BUMPERS and COCHRAN, have given us their assurances they will work to do so.

DEFENSE REINVESTMENT TASK FORCE

Mr. PELL. Mr. President, I am pleased to join my distinguished colleague, Senator PRYOR, in transmitting the recommendations of the Defense Reinvestment Task Force, to which I was appointed by the majority leader on March 30.

First, I would like to thank Senator PRYOR, who ably and admirably chaired this task force, and his staff for carrying out this assignment in a superlative manner and for putting together these recommendations. These recommendations are a result of numerous meetings between the 25-member task force and various administration officials, including Secretary

Reich and Secretary Brown, individuals from defense impacted communities as well as experts from academia and the private sector.

Unlike the Defense Adjustment Task Force which was convened in early 1992 to fill a void resulting from the previous administration's total lack of advance planning for transition to lower defense expenditures, this task force, in a sense, had a different objective. Throwing money at a problem this difficult and complex rarely presents a positive, comprehensive and long-lasting solution. Complex problems require more than just money: they require an imaginative, creative, and cooperative effort to help bring about a positive resolution. Above all, Mr. President, complex problems require an impetus for change and a courageous leader to thoughtfully and cautiously implement that change.

The impetus for change was signaled in the 1992 elections and the courageous leader who decided to face this national problem is President Clinton. I was pleased to join the President at the Westinghouse plant in Baltimore on March 11 when he announced his comprehensive, 5-year, $20 billion, defense reinvestment initiative which included the release of funds supported by this task force's predecessor and previously appropriated by Congress. The President's initiative, which would employ dual-use technology and commercial-military integration, aims to relieve the sting of military downsizing while capturing the great potential that defense workers and companies offer to meet crucial domestic needs. The President's initiative also includes military and civilian worker training and adjustment, investing in hard-hit communities, and conversion opportunities in new civilian technology. In short, Mr. President, President Clinton, in his March address, sent a strong and needed signal to the country that his administration will ease the transition from a military to a civilian economy by investing in defense workers, companies and communities hit hard by the post-cold war military drawdown.

The President's leadership and courage is a welcome sign of a new era. I have been arguing for nearly 10 years that the Federal Government should take a far more vigorous role in promoting adjustment to decreased expenditure for defense and have introduced legislation to that effect.

In New England, where we continue our slow climb out of a recession, reductions in defense spending will have a severe impact on many working families and communities if Government forces are not appropriately marshalled. In Rhode Island, where the unemployment rate has hovered between 8 to 10 percent for the past 2 years, and where we are heavily dependent on defense-oriented production, the lack of foresight and planning could be devastating.

As military spending continues to decline, Mr. President, it is necessary for those firms who are able to adjust or convert their production lines to attempt to do so. Entering into new fields of production will not only sustain the jobs base, but may also hopefully expand it. I am pleased to point out to my colleagues an article which appeared in the July 21 New York Times entitled "Going From Exotic to Mundane." The article mentions a small Rhode Island-based company, Quadrax, which recently announced that it will supply a tennis racquet manufacturer with light carbon-fiber materials developed for use on the *Seawolf* submarine. I mention this article to my colleagues not only as an example of postdefense production possibilities, but as an example of American ingenuity, breakthrough technological research and advancement, and industrial perseverance.

In conclusion, Mr. President, the overall recommendations presented by the task force are positive and creative and, for the most part, will use existing Government structures wherever possible and leverage minimum public expenditures into maximum public benefits. After being briefed by officials from communities affected by the defense downsizing and base closures, the task force was convinced that the Federal Government's response to these defense impacted communities must be reinvented to eliminate bureaucratic barriers to economic redevelopment.

In the coming weeks, I will be working to secure legislative action in the areas where the task force has recommended through the relevant committees of jurisdiction.

Mr. President, I ask unanimous consent that the aforementioned article from the New York Times be inserted in the RECORD at the end of my remarks.

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

[From the New York Times, July 21, 1993]

GOING FROM EXOTIC TO MUNDANE

(By John Holusha)

University researchers and a group of companies including du Pont and Lockheed hope to beat swords into infrastructure by building a bridge in San Diego made of lightweight composite materials similar to those originally intended for B-2 bomber.

Quadrax, a small Rhode Island company, hopes to migrate from military service to power serves by supplying a Taiwan maker of tennis racquets with carbon-fiber materials like those used on the Seawolf submarines.

And advanced materials may be the key to building successful electric cars because the materials' light weight may compensate for the heavy batteries that such cars will need.

Uses for the Exotic

Like so many other industries facing military cutbacks, producers of advanced composite materials are scrambling to find civilian markets. But this $1 billion industry worldwide faces a special marketing challenge: finding everyday uses for exotic, often costly plastics, metals and fibers capable of withstanding supersonic speeds or the temperatures inside a jet engine.

The new Boeing 777 wide-body aircraft due to begin service in 1995 has a vertical tail and flaps made of composites, and the revised 737 is expected to use composites extensively. But the 777 supplier is a Japanese company, Toray, and many American officials in government and industry worry that if other profitable new markets cannot be found for the wonder substances from the nation's aerospace labs, then the domestic materials-processing industry may lose its edge.

"The Japanese have not missed a step in developing new materials," warns J. Michael Bowman, du Pont's vice president for advanced-material systems.

Senator Jeff Bingaman, the New Mexico Democrat who is chairman of the Armed Services Committee's technology subcommittee, said the Government must help establish what could be an important industry. "We have led the world in research and development to meet our aerospace needs," he said. "Now we see more opportunity to shift to more commercial products."

He said Federal agencies like the Advanced Products Research Agency should buy civilian as well as military products made from advanced composites so producers could refine processes and make them in large enough volumes to lower their prices, which today can be hundreds of dollars a pound. "There is great potential to reduce the cost of manufacturing," Senator Bingaman said.

Composite materials, which are usually made of strands of glass or carbon fiber embedded within a plastic or metal matrix, were developed for aerospace and military applications because they are lighter and stronger than the metals they replace. In addition, the fibers can be layered or even woven in ways that tailor properties like strength and stiffness for specific applications.

Some of the developments are particularly exotic. The Specialty Materials unit of Textron Inc., for example, has developed a composite in which silicon carbide fibers reinforce titanium, for use in projects like the National Aero-Space Plane where the high temperatures caused by air friction would weaken the metal if it was used alone.

But in many cases, companies that built factories to supply millions of pounds of materials for the B-2, the F-22 fighter and other now-shrunken military programs have either dropped out of the business, like Phillips Petroleum, or are limping along at a fraction of their production capacity, as Du Pont is doing.

According to a study by the industry's trade association, military demand for carbon fiber, a principal component in many composites, is down 78 percent from the levels that had been predicted in 1987. And more than half the executives responding to a Commerce Department survey of about two dozen advanced-materials companies reported operating at less than 59 percent of capacity; about 40 percent of the companies said they were losing money.

Spanning an Interstate

The project in San Diego, still early in the planning stages, would be a 450-foot-long suspension bridge linking two parts of the University of California campus that are separated by Interstate 5.

Supporters of the project say the bridge, to be built of a variety of glass, carbon and

polymer composites and intended for use by pedestrians, bicycles, cars and trucks, would be more resistant to damage from earthquakes than one made of steel, concrete and other conventional materials. The crucial factor is that this bridge's weight would be about one-tenth that of conventional bridges—and thus it would be less likely to collapse under its own weight if a support column should be shaken loose. And proponents say the corrosion-free materials could lead to lower maintenance costs.

The group—which also includes BP Chemicals and Hercules Inc.—says the bridge will cost $55 million; so far it has raised only $1.6 million from the Federal Highway Administration. It hopes the rest will come from the Federal Government in the form of a grant for a defense-conversion project. The whole project is expected to take four years, with three for research and development and one for construction, after financing is arranged.

"There are enough companies involved and enough Government people interested that it may come off," said Steve Loud, editor of the Composite Market Reports newsletters in San Diego." And the university has a real need for it.

For the builders, the main value of the San Diego bridge would be as a high-visibility demonstration project of the materials, since a conventional bridge could probably be built for less than $10 million.

But even if composites remain more expensive than materials like steel and concrete—as is likely—they may find markets because of their strength and durability. A likely area for substitution would be the steel reinforcing bars used in highway bridge decks.

"Sure, steel costs less," Mr. Loud said. "But if you have to rebuild the decks every 15 years because the steel has corroded, maybe carbon is cheaper in the long run."

For similar reasons, he said, the Navy is studying the use of composites in building piers. "The wood in the piers deteriorates in seven or eight years, and they have to rebuild," Mr. Loud said.

Because of the costs, the few consumer-product applications so far have been in lightweight sporting goods like golf clubs, tennis racquets and fishing rods, where people—as did the Pentagon of old—are willing to pay high prices in pursuit of a battlefield edge.

A representative company is Quadrax, a small producer of carbon, glass and Kevlar composites in Portsmouth, R.I. In the past, one of its principal products was a tile made of carbon and Kevlar—a polymer produced by Du Pont—which was used to deaden noises on the Seawolf submarine which is now under construction.

A Future in Sports

But these days Richard Fisher, Quadrax's chairman, wants to talk about the deal he has made with the Taiwan tennis racquet producer, Kunnan Enterprise Ltd. He has agreed to be the exclusive supplier of carbon composite for a new line of racquets that Kunnan expects to produce under its own Pro Kennex and Wimbledon brand names. He expects the deal to yield his company several million dollars in sales starting next year. Mr. Fisher said the racquet would probably sell in the premium end of the retail market, at $100 to $300.

The Quadrax material is thermoplastic, which means it can be remelted and used again, rather than the unmeltable thermoset materials used in most previous composites.

It has other properties as well, Mr. Fisher said: "It gives you a better racquet, because it deadens vibrations better than thermosets. So you have more control. And it is easier on the elbow."

TRIBUTE TO ANTOINETTE HANDY

Mr. PELL. Mr. President, I rise today to recognize D. Antoinette Handy, an extraordinary woman who is retiring this week from her position as director of the music program at the National Endowment for the Arts.

Miss Handy's achievements are impressive. An accomplished flutist who studied at the New England Conservatory, Northwestern University, and Paris National Conservatory, Miss Handy performed in America and abroad for 20 years. She was first flutist during the 1952–53 season with the Chicago Civic Orchestra. She has received recognition for her leadership and achievement in the arts from a variety of sources, including the Cleveland Institute of Music, from which she recently received an honorary degree of doctor of music; the National Association of Negro Musicians, which bestowed upon her the Distinguished Contribution Award; the women's office of the mayor of New Orleans which named her Outstanding Woman in the Arts; the Governor of Louisiana who awarded Miss Handy a Certificate of Achievement; and the National Black Music Conference which recognized Miss Handy's achievement with a National Music Achievement Award. In addition, Miss Handy was recognized by both the New England Conservatory and Northwestern University as an Outstanding Alumna.

Miss Handy is the author of three books: "The International Sweethearts of Rhythm," "Black Women in American Bands and Orchestras," and "Black Conductors." She also contributes to publications such as the Black Perspective in Music, American Music, Symphony magazine, and ARTS-REVIEW.

She has also shared her talent and insight with young musicians across the country through her service on the faculty of Florida A&M, Tuskegee Institute, Jackson State University, Virginia State University, and Southern University of New Orleans. In addition, she was an artist-in-residence in the Richmond public schools. She was also a Ford Foundation-sponsored humanities fellow at Duke University and the University of North Carolina. Miss Handy is a frequent speaker at university symposiums and commencements, professional conferences, festivals, among other events.

Antoinette Handy's work in the music field, including her service at the National Endowment for the Arts, has been, without doubt, remarkable. The music field has benefited from her strong leadership at the Endowment's Music Program. Most notable are her efforts to promote the art of jazz and bring jazz to the level of recognition it deserves. Miss Handy was instrumental in the Endowment's establishment of the National Jazz Service Organization which, along with other partners, administers the National Jazz Network. In addition, the American Jazz Masters Program, which honors living jazz legends who have made significant contributions to the art form, has flourished under Miss Handy's leadership.

Mr. President, it is a pleasure to congratulate Antoinette Handy on her retirement and offer her my best wishes for the future.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician, or an editor, or a commentator, declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that duty for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,343,781,271,134.35 as of the close of business on Monday, July 26. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $16,911.15.

DISTRICT OF COLUMBIA APPROPRIATIONS, FISCAL YEAR 1994

Mr. WARNER. Mr. President, I wish to thank the committee for the attention they have given to the matter involving a proposed cogeneration facility on the Georgetown University campus.

I am grateful for the committee's report language on this matter, and believe it has helped to further the District's timely review of this project.

In a letter dated July 22, 1993, the District's director of the Department of Consumer and Regulatory Affairs committed to the project's sponsors a timetable for a review of a supplemental environmental impact statement of the project.

Assuming that the supplemental EIS is submitted for review as proposed by the District, I am pleased that the District of Columbia has committed to a date of October 1, 1993, to review this additional information and complete the process so the project can proceed to construction.

Mr. President, since 1983 Georgetown University has operated a small cogeneration facility and in 1988 proposed to upgrade this facility to a 56-megawatt plant on the campus grounds. This facility will meet the power needs of the

university with additional capacity being utilized by Potomac Electric & Power Co. [PEPCO].

This combined cycle cogeneration facility was approved as part of the 1989 university campus plan by the District of Columbia's Board of Zoning Appeals, and subsequently was affirmed by the District of Columbia Court of Appeals.

The project has also undergone extensive review for the past 3 years by local and Federal agencies.

I would respectfully request that the committee continue to follow the District's review of this project to ensure that the October 1, 1993, commitment is met. It would be my hope that, in the event the District does not complete its process by that date, the committee will take further positive action.

TRIBUTE TO GEN. MATTHEW B. RIDGWAY

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of this Nation's most innovative and dedicated soldiers, Gen. Matthew Bunker Ridgway, who passed away on July 23, 1993, at the age of 98. General Ridgway was one of the great commanding generals of World War II, and he rendered outstanding service to our Nation.

I had the pleasure of going to Pittsburgh 2 years ago with General Powell and Senator NUNN to present General Ridgway with a special gold medal from the Congress. He was alert and gracious, and deeply appreciative of this honor.

Born into an Army family, Matthew Ridgway was destined to become one of the finest warriors this Nation has produced. After graduating from the U.S. Military Academy at West Point in 1917, young Second Lieutenant Ridgway accepted a commission in the infantry and headed west for Camp Eagle Pass, TX, where he served with the 3d Infantry, better known as "the Old Guard."

General Ridgway's early career led him to many different posts in the United States and throughout the world. In the period between the First and Second World Wars, he returned to West Point to teach French and Spanish. He also spent 2 years as a student at the infantry school; served in China, Texas, Nicaragua, Bolivia, Georgia, Panama, the Philippines, Illinois, San Francisco, and Brazil. In addition, he attended Command and General Staff School and the Army War College.

Soon after the beginning of World War II, Major General Ridgway was given command of the recently reactivated 82d Division, which was redesignated as the 82d Airborne Division. Ridgway was charged with converting this unit from straight leg infantry to airborne infantry. The general and his unit were soon tested in combat, during the 1943 invasion of Sicily; and their performance proved that airborne infantry would become an important aspect of modern warfare.

Ridgway became known as a fearless campaigner, and his concern for his troops was always in evidence. He believed in command by example, and never hesitated to put himself in harm's way along with his soldiers. When the decision was made to use airborne troops to isolate German forces defending the coast of France from their reinforcements, Ridgway—as commander of the 82d Airborne Division—joined the 2d Batallion of the 505th Parachute Infantry Regiment in the airborne assault of Normandy. I was attached to one of the glider regiments under General Ridgway's command and landed near Sainte-Mere-Eglise during the invasion. The glider soldiers and paratroopers of the 82d were successful in wreaking havoc and confusion amongst the Nazis, causing them to waste valuable time in responding to the invasion and giving Allied soliders an opportunity to establish a beachhead.

The successful use of airborne soldiers convinced General Eisenhower that such forces would be invaluable in bringing Germany to its knees, and he placed Ridgway in charge of the XVIII Airborne Corps. For the remainder of the war, Ridgway's forces were involved in some of the most critical operations against the Nazis, including the Battle of the Bulge. In every instance, the American airborne troops distinguished themselves, often providing the decisive element in Allied victory.

After the Second World War, General Ridgway held a number of high-level positions including serving as General Eisenhower's representative on the Military Staff Committee of the United Nations and as the commander in chief of the Caribbean command. He soon found himself in charge of troops in combat once again, this time in Korea, where United Nations forces were battling Communist North Korean soldiers who had invaded their southern neighbor. After Gen. Walton H. Walker was killed, Ridgway assumed command of the U.S. 8th Army.

Ridgway rebuilt the morale and effectiveness of a force that had been decimated by heavy fighting, rallied the troops, and pushed back past the 38th parallel, regaining much ground that had been lost to the enemy. After General MacArthur was relieved of his command, President Truman named General Ridgway as supreme commander in the Far East, placing him in charge of all United Nations forces operating in Korea.

Ridgway was later named supreme commander of Allied powers in Europe, where he expanded NATO forces from 12 divisions to 80 and brought cohesion to the NATO alliance. His career peaked when President Eisenhower named him Chief of Staff of the Army, a post which he held until his resignation from active service in 1955.

Mr. President, Gen. Matthew Ridgway was a man of courage and character, an outstanding soldier, and a great patriot. He will be remembered as one of the fathers of the airborne, and his accomplishments provided an example which commanders of today still seek to emulate. Those of us who fought with him deeply appreciated his sound leadership and his deep concern for the men under his command.

Our country has lost one of its greatest fighting generals with the passing of General Ridgway. Our Nation should never forget his courage and ability, and the sacrifices he made to preserve our freedom.

I would like to take this opportunity to extend my deepest sympathy to his wife, Penny, and the rest of his fine family at this time of sorrow.

TRIBUTE TO MR. NATHAN JORDAN JOHNSTON

Mr. THURMOND. Mr. President, I rise to pay tribute to one of South Carolina's finest sons, Nathan Jordan Johnston, who recently passed away at age 89. He was a good friend who dedicated himself to public service and improving life for the citizens of our State.

Born in 1904, Mr. Johnston attended public schools for his primary and secondary education and graduated from the University of Florida in 1927. Two years later, his election as chairman of the Hampton County Board of Education and superintendent of education, began his lifelong involvement in public service. After a successful term in Hampton County, Mr. Johnston moved on to the Varnville Public School System where he served as superintendent of schools for 8 years. During his tenure there, he made many improvements in the quality of education his pupils received. Forming a consolidated school district, Jordan was able to raise the tax base and increase both the number of teachers and students who attended his schools.

As war raged in Europe and the United States began to prepare for a possible military conflict, Mr. Johnston was appointed as a captain in the Coast Artillery Corps of the South Carolina National Guard. As this unit's commander, he was to recruit, organize, and command Battery D of the 107th AAA Battalion. After training at Fort Stewart, GA, Johnston and his unit soon found themselves overseas, fighting the Axis enemy. He retired from the military in 1946 as a lieutenant colonel, having served his Nation bravely during the greatest armed conflict in history.

Shortly after returning to the United States, Mr. Johnston found himself in the public sector yet again, this time

as the treasurer of Hampton County. He served in this important position for 21 years before retiring in 1970.

Mr. Johnston's service to the community did not end at the door of his office or the end of the workday. A tireless volunteer, he served as the treasurer of the Estill Methodist Church and the Hampton County unit of the American Cancer Society. He was also involved with the American Legion. He was a trustee of Patrick Henry Academy; belonged to a number of military, patriotic, and professional organizations; and was a charter member of the Hampton Lions Club. Additionally, he was past president of the South Carolina Association of County Treasurers and the Hampton County Education Association.

Despite all the demands of his duties as county treasurer and the many organizations to which he belonged, Mr. Johnston was also a devoted family man. He and his lovely wife Helen raised a fine son, Coy Johnston, who has worked hard to establish one of this Nation's most ambitious conservation projects, the Ace Basin, a reality. Mr. Johnston was also proud of his three grandchildren, one of whom is my exceptionally capable and dedicated executive assistant, Holly Richardson.

Mr. President, Nathan Johnston exemplified the very best qualities. He spent 39 years of his life selflessly serving others while contributing to the safety and improvement of his State and Nation. I was proud to call him a friend, and I know that he will be missed by a large circle of friends and relatives.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Let the Chair note that the time for morning business has expired.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 2519, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2519) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies, for the fiscal year ending September 30, 1994, and for other purposes.

Pending:

D'Amato amendment No. 698 (to committee amendment beginning on page 8, line 16), to apply the constitutional drug kingpin death penalty procedure for terrorist activities and bombing offenses under section 844 of title 18, United States Code, that result in the death of a person.

AMENDMENT NO. 698

The ACTING PRESIDENT pro tempore. Let the Chair note one other item here. The pending question is the D'Amato amendment No. 698 to the committee amendment on page 8, line 16.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have come to the floor to support the amendment proposed by the Senator from New York. I am not certain that all Members of the Senate realize that nearly all Federal crimes which now carry the death penalty by law, including terrorist attacks, lack specific legal authorization to establish constitutional procedures to allow the courts to carry out the death penalty.

This defect means that even if terrorists who are accused of crimes as heinous as the bombing of the World Trade Center are convicted, there are no procedures to allow the current death penalty required by law to be carried out and to result in execution.

Such people would not be executed under New York law either. Under Federal law, bombing of buildings such as the World Trade Center containing Federal offices is punishable by death under section 844(f) of title 18 of the United States Code. However, because of Supreme Court decisions, there are constitutional defects in the procedure under this and nearly all other Federal death penalty statutes which would, in effect, prohibit executions from being carried out even if ordered by the courts.

Senator D'AMATO's amendment would cure this problem by applying procedures that have been found to be constitutional to the crimes of terrorist bombings and other terrorist acts. These are the same procedures that we have adopted—we adopted them in 1988 for murders occurring during drug crimes. Those procedures have passed the Senate a number of times. Senator D'AMATO's amendment also cures the constitutional defects which prevent the imposition of death penalties for murder occurring as a result of mail bombs.

I particularly come to the floor this morning because of a tragic example of the need for this provision that recently took place in Alaska.

A Federal court refused to permit the U.S. Government to seek the death penalty for a mail bombing which killed an Alaskan and seriously injured his wife. The court found the statute failed to include the statutes that had been prescribed by the Supreme Court to establish the procedures that I mentioned before.

In this case, the son of the victim was the actual target of the crime. He was the target of the bomb, and the bomb was sent in retaliation for the son's testimony against the perpetrators in an earlier murder case. In fact, the crime was planned in prison while the individuals were serving time for committing another senseless murder.

I have heard opponents of the death penalty say that the death penalty is not a deterrent. In my judgment, the Alaska tragedy refutes this argument.

With persons in prison indefinitely, execution is the only credible sanction that is available to deter them from committing similar crimes. For such individuals, jail time appears to be no deterrent at all. As I said, these people actually planned the mail-bomb murders while in jail. And there is no real coherent set of procedures under State law that would take care of this circumstance.

Here in the Senate, we passed a bill instituting constitutional death penalty procedures for all Federal death-penalty crimes, including mail bombing, in October 1990. That was just before the tragic mail-bombing case that I mentioned in Alaska. But the bill never became law.

We have repeatedly passed legislation to comply with the Supreme Court's decisions that require specific procedures to carry out the death penalty prescribed by law, but those procedures have not become law because of problems with the other body.

It is my hope the Senate will again take this opportunity to try to reinstate the death penalty for these terrorists, for mail bombers and others who commit these heinous crimes. We have already enacted the death penalty for these crimes and we believe they should result in the death penalty being carried out.

Now, I understand that the Senator from New York will modify his amendment further today. I encourage him to do so because there are additional procedures that should be spelled out specifically in his amendment.

Again, I have heard some people in the Senate raise the question as to why this amendment is being brought up at this time. We have been raising this amendment in the Senate now since 1988. The Senate has each time passed it, enacted it, and sent it to the House.

I urge that the Members of the House realize that these increasing terrorist attacks throughout our country, should they result in conviction and imposition of the death penalty, they cannot be carried into execution because of our failure to comply with the Supreme Court decisions which require that specific procedures be followed in the court cases where the death penalty is to be imposed.

Mr. President, I see my good friend from New York is here. I want to congratulate him for his amendment and urge him to make the modification that we have discussed.

I would call to the attention of the Senator from New York that the Senator from Michigan has been seeking the floor. But when the Senator has the

floor, I do hope that he will make the modifications we have discussed.

I urge the Senate to heed the advice of the Senator from New York. His State has been the victim of numerous terrorist activities. The Senator himself has been under a serious terrorist threat.

If we are going to have the death penalty in the Federal statutes, I do not know why we do not comply with the Supreme Court's opinions and make them effective. It is just a matter of defective procedures. The death penalty issue is already settled. We are talking about the procedures to carry out the death penalty that is required by law.

I hope the Senate will listen to the Senator from New York.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Michigan is recognized.

Mr. D'AMATO. Mr. President, might I ask my colleague, my good friend, Senator LEVIN, if he would permit me, for purposes of the record, to submit at this time my modification as requested by the Senator from Alaska.

The modification would simply include those sections that deal with mail bombings and is specifically included so that it would be covered.

Right now, if there is an interstate bombing, there is no question, as it relates to mail, that it would be covered. If there is intrastate—within the State—though, then it is open. This modification would clearly bring mail bombers within the purview of this legislation.

Mr. LEVIN. For that limited purpose, I would have no objection. The Senator would then yield back to me?

Mr. D'AMATO. Certainly.

Mr. LEVIN. I ask unanimous consent, Mr. President, that the Senator from New York be allowed to modify his amendment as he indicated; that I then be again recognized; and that this not count against the rules of the Senate relative to two speeches.

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

Mr. D'AMATO. I thank my colleague.

AMENDMENT NO. 698, AS MODIFIED

Mr. D'AMATO. Mr. President, I submit my amendment for modification as indicated.

What it would do is include mail bombing by referring to a violation of subsection (a) of title 18, United States Code, section 1716, injurious articles as nonmailable.

The modification comes on page 2.

I ask that it be printed in the RECORD as modified.

Again, the modification of my amendment explicitly includes mail bombing.

I thank Senator LEVIN.

The PRESIDING OFFICER. This will be put in as a matter of regular order.

The Senator has a right to modify his amendment and the amendment is so modified.

The amendment (No. 698), as modified, is as follows:

At the end of pending amendment, add the following:

CONSTITUTIONAL DEATH PENALTY PROCEDURES FOR CAUSING DEATH BY TERRORIST ACTIVITY OR BOMBING.

(a) DEATH PENALTY PROCEDURES.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Definitions.
"3592. Sentence of death.

"§ 3591. Definitions

"In this chapter—

" 'capital offense' means an offense that constitutes—

"(A) a violation of subsection (d), (f), or (i) of section 844;

"(B) a violation of subsection (a) of section 1716; or

"(C) a terrorist activity.

" 'terrorist activity' means—

"(A) the highjacking or sabotaging of an aircraft, vessel, vehicle, or other conveyance;

"(B) the seizing or detaining of a person and threatening to kill, injure, or continue to detain the person for the purpose of compelling another person (including a government organization) to perform or refrain from performing any act as an explicit or implicit condition for the release of the seized or detained person;

"(C) a violent attack on an internationally protected person (as defined in section 1116(b)(4) or on the liberty of such a person;

"(D) an assassination; and

"(E) the use of a biological agent, chemical agent, or nuclear weapon or device with intent to endanger, directly or indirectly, the safety of a person or to cause substantial damage to property.

"§ 3592. Sentence of death

"(a) IN GENERAL.—A sentence of death for a capital offense may be imposed only if—

"(1) the defendant caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury; and

"(2) the sentence is imposed in accordance with the procedures set forth in section 408 (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r) of the Controlled Substances Act (21 U.S.C. 848 (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r)), except that for the purposes of a violation of that law, the references to "this section" in section 408(g) and (h)(1) and "subsection (e)" in section 408(i)(1), (j), (k) (each place it appears), and (p) of the Controlled Substances Act shall be deemed to be references to that subsection.

"(b) EXCLUSIVITY.—No rule of law, including a rule contained in a law under which an offense is committed, may be applied in determining whether a penalty of death shall be imposed in a particular case, other than the procedures described in subsection (a). Those procedures supersede all other provisions of law that pertain to whether a penalty of death shall be imposed in any particular case (not including the authorization of the penalty itself).".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act notwithstanding any other provision of this Act.

Mr. D'AMATO. I thank my colleague.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, before I address the amendment of the Senator from New York, which is pending, I want to comment briefly on some events that are now occurring in Bosnia that are of critical importance.

ON THE USE OF MULTINATIONAL AIR STRIKES TO PROTECT U.N. FORCES IN BOSNIA

Mr. LEVIN. Mr. President, this morning's Washington Post reports that NATO air strikes, involving the assets of the United States and our allies, may be an imminent possibility in Bosnia. This should come as a surprise to nobody, in fact I believe it will be welcomed by the world community and the American people as long overdue. The United Nations and NATO have been assembling the capability for months to protect UNPROFOR forces on the ground against attacks by Serbian or other factions.

On June 4, the U.N. Security Council passed its resolution No. 836, to establish protected safe havens in Bosnia. Paragraph 10 of that resolution states that U.N. member states or regional organizations are authorized to support U.N. forces by "all necessary measures, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina."

At a foreign ministers meeting in Athens, Greece just 1 week later, NATO approved a plan to act on this U.N. authority. In the final communique on June 10, NATO ministers declared:

> In response to U.N. Security Council Resolution 836 and the expanded UNPROFOR mandate related to safe areas, we offer our protective airpower in case of attack against UNPROFOR in the performance of its overall mandate, if it so requests.

The design of the NATO and U.N. arrangements intentionally puts decisions about when to retaliate against attacks on U.N. forces in the proper hands. A U.N. commander on the ground, under attack, can radio a request for air strikes against his attackers from NATO forces on call.

The military command and communications arrangements have been put into place over the last 6 weeks. Most of the planes and equipment needed were in the region and have been transferred to local bases in Italy and other NATO countries. The NATO Airborne Command and Control Center is ready. Forward air controllers from the national forces of the United Kingdom, France and Canada, under UNPROFOR command, are in place in Sarajevo. The UNPROFOR Air Operations Coordination Center has or will imminently become operational in Kisseljak, Bosnia.

And the U.N. Secretary General, who must approve the use of this capability in the first instance, and only the first

instance, has made arrangements to give his approval and notify the Security Council in the shortest possible time. On Monday I visited with the Secretary General's Undersecretary for Peacekeeping, Mr. Kofi Annan, who reaffirmed this.

On June 30, the Pentagon spelled out precisely the arrangements that exist for U.N. forces to request air cover. I ask unanimous consent that the June 30 letter to me from Deputy Under Secretary of Defense for Policy, Mr. Walter Slocombe, be printed in the RECORD.

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

(See exhibit 1.)

Mr. LEVIN. The safe havens plan has been justifiably criticized for several reasons. But while the United Nations still has not mustered sufficient forces to carry it out entirely, Sarajevo is designated a safe haven. But it has been anything but safe for the U.N. forces on the ground there.

Last Sunday, French troops under U.N. command came under direct shelling in the Olympic Stadium they were using as headquarters. The headquarters was well known and well marked as a U.N. facility. There is little doubt the attack was intentional.

It has been argued that U.N. peacekeepers on the ground would be jeopardized by airstrikes. But by having the ground units themselves make the decision, individual U.N. commanders will determine when airstrikes would help alleviate the danger they face and when such strikes would jeopardize their forces.

Establishing NATO's capacity to use force in Bosnia right now is a crucial step. It can and should be used to retaliate for attacks against any of the thousands of U.N. troops already in the region. Having made the breakthrough with our European allies at the Security Council and NATO to authorize and prepare, for the first time, the use of multinational air power in support of U.N. troops on the ground in the former Yugoslavia, it would be a mistake not to use that capacity when the circumstances clearly merit action. The American people need to know that for the first time airstrikes are a real possibility.

Using NATO air power to help U.N. ground forces protect safe havens, including Sarajevo, is something we can build on to actually stop the killing and protect what is left of the Republic of Bosnia and Herzegovina. Using this multinational force to provide air cover against attacks on U.N. forces is one of several actions the world should take immediately to help contain the war. The fragile new democracies in the region are desperate for a show of NATO force that might prevent Serb aggression from spreading to their countries and elsewhere in the Balkans.

A second step we need to take is to close the holes in the sanctions against Serbia, or they are not going to work. The United Nations should toughen the mandate of its forces who are currently only monitoring so that they can interdict illegal commerce. Right now they are just standing there counting trucks and rail cars streaming into Serbia, while in the Adriatic a naval task force is stopping ships. The United Nations must stop trucks and trains from streaming across the Macedonian border, and any other porous points. This may require providing some compensation for the countries who have relied almost entirely on Serbia for trade, but why not make that additional investment to make our already large expenditure on sanctions enforcement more effective?

Third, we should do what we easily can do, with little risk, to get outside information into Serbia and Croatia, whose national governments currently dominate broadcast propaganda on radio and TV. The United States has an airplane with the capacity to override Serbian radio and television broadcasts and replace them with our own programming, or programs produced by the United Nations. The plane, named Commando Solo, was used with great effectiveness during the gulf war.

At any time during the last 2 years, the United States could have flown Commando Solo near Serbian or Croatian territory—and it can right now—to provide residents with a window on their own troops' ethnic cleansing, the world's outrage, or the resolve of the United Nations. No satellite dish would be needed, just a normal TV or radio antenna.

Even allowing for the Serbian citizenry's carefully-fueled suspicion of foreigners, imagine the impact of viewing on Serbian state-run television the trial and confession of Serb-soldier Borislav Herak to committing horrible rapes, torture and killings under direct orders. Herak's entire trial played to American cable television audiences on "Court-TV," but his own countrymen have not seen his free admission to these war crimes.

It has been suggested that such broadcasts would violate Serbian or Croatian sovereignty by infringing on their national control of the airwaves. Yet NATO has tens of thousands of troops and hundreds of ships and planes enforcing an international blockage and a no-fly zone, infringements on sovereignty which inflict far greater costs on Serbia and Croatia than Commando Solo ever would.

Imposing "equal time for responsible opposing viewpoints" on the residents of the former Yugoslavia will not, by itself, end the war there or topple the region's dictators, but it should be part of a strategy to contain the conflict and undermine expansionist ambitions. Commando Solo is one of the tools of democracy that could be applied at relatively little cost in dollars or risk to American lives.

Nobody is satisfied with the steps our country and our allies have taken in Bosnia. The horrible tragedy sickens us, and it should make us worry that the very multinational security institutions we need in this new world are also sick and weak at the very time we need to make them stronger and more effective.

Twice in this century the United States has been dragged into a European war after turning our heads and hoping it would go away. It is in our national interest to act with our allies to stop the war in the former Yugoslavia before it becomes a larger conflagration. And it is also essential to make NATO and the U.N. effective, credible security institutions. Otherwise, the United States and the world will face more Yugoslavias around the globe, and we will not have the tools to prevent them.

But let me reiterate, as we read in the paper this morning and as I hope Americans across this country are reading in their papers today and seeing on their televisions and hearing on their radios today and tonight, we are finally at a point where we have in place air power to strike at the Serbs who are shelling U.N. forces in Sarajevo.

All it takes is a decision of a U.N. commander on the ground. And then all it takes is a decision of the Secretary General of the United Nations to finally make the United Nations able and willing to stand up and respond to the aggression, the horrible tragic aggression that has taken place in Serbia.

EXHIBIT 1

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, June 30, 1993.

Hon. CARL LEVIN,
Chairman, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I understand that, during the June 30 confirmation hearing of Ambassador Chas Freeman for the position of Assistant Secretary of Defense for Regional Security Affairs, you asked what command and control arrangements had been worked out to engage NATO aircraft to protect UNPROFOR elements in Bosnia. The U.S., in close consultation with our NATO allies, has proposed arrangements that were approved by the NATO military committee and subsequently debated by the North Atlantic Council (NAC) on June 30. Those arrangements are subject to silence procedure set to expire 1100 a.m. EST, July 2. If no nation breaks silence, the arrangements will go into effect at that time.

The command and control arrangements we advocate and which are now under consideration by NATO are as outlined briefly below:

The commander of the UNPROFOR unit under attack, working with his NATO-trained forward air controller, contacts the Air Operations Coordination Center (AOCC) to request close air support (CAS). The AOCC is co-located with UNPROFOR Headquarters,

Bosnia-Hercegovina. Accordingly, the AOCC/UNPROFOR B-H approves the request and relays their approval to the Airborne Command and Control Center (ABCCC);

The ABCCC (which will have already monitored the initial request for support), receives the AOCC approval and then provides target information to the Close Air Support Combat Air Patrol (CASCAP), which is by definition already in the air (on a 24-hour basis) and located/equipped to provide close air support promptly to the UNPROFOR unit under attack;

The Netherlands, UK, and France have insisted that the UN Secretary General personally authorize the very first provision of air support by NATO aircraft for a UNPROFOR unit under attack. Subsequent requests would be approved by the AOCC/UNPROFOR B-H, as outlined above. The initial approval by the Secretary General is intended to underscore the principle that such air support is sanctioned by the UN which, in turn, delegates the task to NATO; i.e., it is not a NATO-initiated operation.

In closing, I want to reiterate that, although final approval of air support arrangements by NATO-member nations is still pending, I am confident arrangements will soon emerge that will ensure pragmatic, prompt and effective close air support as required for UNPROFOR units in Bosnia.

Sincerely,

WALTER B. SLOCOMBE,
Principal Deputy Under Secretary of Defense for Policy.

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. LEVIN. Mr. President, I want to now address the amendment that is pending, and I thank the manager of the bill for his patience and allowing me to interject a comment on a very critical area which I think must be discussed on this floor, since we are on the verge now, hopefully, of responding, through NATO air strikes, against Serbian aggression in Sarajevo. It is important to all of us that the American public know that we are at that point so that hopefully they will not be caught by surprise, as surely the Serbs will not be caught by surprise, when NATO air strikes finally respond to Serbian attacks in Sarajevo.

Now relative to the pending amendment, I first ask a parliamentary inquiry as to whether or not the pending amendment of the Senator from New York is amendable?

The PRESIDING OFFICER. The D'Amato amendment is a second-degree amendment to the committee amendment and, therefore, it is not amendable.

Mr. LEVIN. Mr. President, it is, I believe, a sad day for the Senate when we are debating an amendment and legislation of this seriousness—capital punishment provisions—when they cannot be amended. It is also, I believe, the wrong place to be debating capital punishment since this is an appropriations bill, and we should not be legislating on an appropriations bill. But there will be more said about that later.

But from my perspective, given the history of capital punishment legislation, which has been so consistently flawed, as this legislation is flawed, which has been constitutionally not supportable, as this amendment cannot be supported by the Constitution, that we cannot even offer amendments and have them voted on by the Senate on this legislation. We are out of business, as far as amendments are concerned, and that is not the way it should be on legislation as important as capital punishment.

On prior capital punishment legislation, we have been able to offer amendments, with maybe one exception where it is also legislation on an appropriations bill. But I agree with the sponsor of this amendment, with the Senator from Alaska and others. This is very, very serious legislation. It is an effort to address, I think in a way which will not succeed, but it is an effort to address terrorism and to see if we cannot act in a way in which we will reduce the incidence of terrorism. It is not a debate about terrorism.

The difference that we have here is whether or not we can address terrorism best through a capital punishment provision or, for instance, best through a provision which requires anyone convicted of terrorism to rot for the rest of their life in jail with no possibility of parole.

It is too bad that we cannot even offer an amendment which would provide for life in prison with no possibility for parole as an alternative to the death penalty and have that voted on by the Senate. We are preempted from even offering that amendment, but we can discuss it. We can discuss it and we can debate it because this is not a debate about terrorism. We all condemn terrorism.

This is not a debate about our sympathy for the victims of terrorism, because we all share that sympathy. Each one of us shares that sympathy equally. Persons who favor and persons who oppose the amendment have equal feeling for the victims of terrorism and equal hatred for the despicable acts of terrorism which inflict this world.

It is not a debate about the threat posed by terrorism. We all recognize that threat. I do not believe that the death penalty will deter terrorists, and I do not believe that human beings, being as limited as we are, as imperfect as we are, and the system of justice that we have developed, no matter how well-intentioned, are infallible enough to have our outrage expressed in a way that does not permit us to correct our mistakes. And that is the bottom line, relative to capital punishment, for me.

Here it will not deter because it does not deter terrorists, but you also cannot correct your mistakes as to deterrence. We are usually dealing with people who, in planning for these terrorist acts, have looked the possibility of death right in the eye and have calculated that it is acceptable, indeed, it may be preferred, as the price for them to pay.

We have seen terrorists who will allow themselves to be exploded along with a car bomb in order to accomplish their goal. We have seen terrorists who have strapped explosives to their bodies as a means of delivering the fatal blow. No modification of the law on habeas corpus will make the death penalty for terrorists more swift or more certain than what they are willing to inflict upon themselves.

As to the possibility of mistakes, the history of the death penalty is full of examples where persons who are not guilty of the crimes for which they were convicted have been executed or almost executed.

I have talked about some of those cases on the Senate floor before, and I am going to talk about them again and about some new cases which have become public since our last debate on this issue.

I cannot support a means of punishment with the finality of the death penalty when we do not have a commensurate assurance of being absolutely right in whom we punish. There are some who support the death penalty, who acknowledge that mistakes occur, but these mistakes are, they feel, in a sense, the cost of doing business in a criminal justice system in which some very bad people must be punished very harshly.

My question is whether they would be willing to make such a tradeoff if a friend were going to have to bear the ultimate burden of human fallibility?

I want to describe in some detail now some of the cases where mistakes have been made. First, my own experience. I was the chief deputy defender in the Legal Aid Society in Detroit during the late 1960's. I know firsthand of cases where people who were absolutely innocent and who were acknowledged to be absolutely innocent had spent most of their lives in prison, having been convicted of capital offenses. If Michigan had the death penalty, they would have been put to death. We did not. They were not put to death. They spent 30 years in prison instead, based on mistaken identity, later proven and acknowledged to be mistaken identity.

Since 1970, at least 48 people, some of whom I will talk about during the course of this debate, have been released from death row after their convictions because of evidence of innocence. A number of these individuals have shared their stories with the Senate and the House Judiciary Committees during hearings on the innocence and the death penalty which took place in April and earlier this month before those committees.

In a book published in 1992 entitled "In Spite of Innocence," noted authors Michael Radelet, Hugo Adam Bedau, and Constance Putnam recount in alarming detail the mistaken identities, perjured witnesses, overzealous prosecutions, and negligent investigative work that led to more than 400 people being erroneously convicted of capital, or potentially capital, crimes in this country between 1900 and 1991 and at least 23 innocent people who have been executed.

Here are just 4 of the 48 cases which provide pervasive evidence of the risk of error. All four of these former death row inmates told their stories before the Senate and the House Judiciary Committees hearings this year.

First, Kirk Bloodsworth, who was freed June 28, 1993, after a newly available and more sophisticated DNA test showed that it could not have been his semen on the underwear of a 9-year-old girl who was raped and murdered in 1984 in Baltimore County. Bloodsworth served years on Maryland's death row, was retried, convicted again, and then sentenced to three life terms, of which he served 7 more years.

Walter McMillan was released in March 1993 from death row in Alabama, after serving 6 years for a crime that he never should have been charged with. No physical evidence linked him to the murder and the three witnesses who testified against him all received favors for their testimony and later recanted their accusations.

Frederico Macias was released in December 1992. Here is what the U.S. Court of Appeals commented:

> The State of Texas paid defense counsel $11 per hour. Unfortunately, the justice system got only what it paid for.

I see my friend from Oregon on the floor, and my friend from Pennsylvania. I was wondering whether or not they want to make a unanimous-consent request. If so, I would be prepared to entertain it. I have spoken previously to my friend from Oregon, and I know that he is in that position.

Mr. HATFIELD. If the Senator will yield a moment, Mr. President, the Senator from Michigan and I have collaborated on our role in this issue. I do not want to cut anyone off from debate, and I understand the Senator from Pennsylvania and the Senator from Louisiana wish to make some remarks.

But at some point very soon, as a member of the Appropriations Committee, I would like to make a point of order against the D'Amato amendment in that it constitutes legislation on appropriations. I would like to have a vote on that. But I do not, as I say, plan to interdict at this point, with Members on the floor who wish to be heard. I am not suggesting a unanimous-consent agreement or anything else. I just wanted them to be put on notice that that would be my expectation.

I understand that the Senator from Louisiana has about 3 minutes of comments and the Senator from Pennsylvania about 12 minutes. So within that timeframe I would then seek the floor to make a few remarks. Then, as I indicated to the manager of the bill, Senator HOLLINGS of South Carolina, as the ranking member of the Appropriations Committee, I will make a point of order.

Mr. STEVENS. Will the Senator yield. At that time, I will raise the point of germaneness, of course.

Mr. HATFIELD. I think we have our signals pretty well clear now as to what the procedure is.

I thank the Senator from Michigan.

Mr. LEVIN. Mr. President, I would ask unanimous consent to ask the manager of the bill and the others on the floor who wish to make comments whether it would be in everybody's interest now to have a unanimous-consent agreement leading up to a point of order, and then a germaneness point by the Senator from Alaska.

Mr. STEVENS. Will the Senator yield. Mr. President, in the absence of the Senator from New York, I would be constrained to object.

Mr. LEVIN. Mr. President, the next case is a Joseph Green Brown, who was released in 1987 from death row in Florida after the U.S. Court of Appeals ruled that his conviction was based on suppression of exculpatory evidence by the prosecutor.

Brown came within 15 hours of his execution and spent 13 years in prison before the chief witness against him changed his testimony.

Mr. President, on January 4, 1989, the Governor of Virginia granted a complete pardon to David Vasquez, who had been in prison for 5 years for a murder that he did not commit. New evidence discovered during an investigation of another murder linked the killing to an Arlington, VA, man who was convicted of some other murders and, according to a detailed account of the facts as reported by the Washington Post on January 5, the Arlington Commonwealth's attorney at the time negotiated the agreement for Vasquez to plead guilty to second-degree murder.

I am frequently asked: Well, you talk a lot about mistakes in capital punishment cases. What about the case where someone pleads guilty to murder? Can there be any doubt in a case where someone pleads guilty to murder that the person is guilty of murder? And to those folks who ask that question, I say, yes. Read the Vasquez case. David Vasquez pled guilty to a murder of which he was totally innocent.

Now, what I am going to do, with the permission of my colleagues, is yield the floor without having given up my right to the number of speeches I am allowed under the rule.

Let me ask a parliamentary inquiry. Is the two-speech rule in effect at this point?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I wonder if there would be objection if I ask unanimous consent that I be allowed to yield the floor at this time, since I have not completed my first speech, and that when and if I am able to regain the floor at a future time, I then be allowed to continue these remarks as though it is the continuation of my first speech.

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

Mr. LEVIN. I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair. I will be very brief in my comments because the subject is terrorists and how we treat terrorists in this country.

I think it is appropriate for this Congress and the American people to say enough is enough. I noticed 5 days ago an article in the Washington Post newspaper headlined "Lenient Visa Rules Permit Terrorists To Enter the United States."

The article pointed out that earlier this year, an Egyptian court convicted 39 Islamic militants of terrorist activities, and as of this week only 5 of them had been put on the State Department's list of persons who should not receive travel visas to the United States.

I find it very hard and very strange to believe that we in this country would not prohibit people from entering our country who have been already convicted of terrorist activities by a court of law.

It goes on to point out that even some persons who are actually convicted of terrorist activities may receive visas to come into the United States, for us to say welcome and come to the shores of the United States even after they have been convicted of terrorist acts, unless a consular officer has reason to believe they would commit some acts in this country.

My point is how much of a message do we have to receive before we can make the decision that there are some people who should not be granted the privilege of coming to the United States.

One of the State Department inspectors pointed out, when this policy was announced, he interpreted the policy to mean "the only person who could be banned, apparently, is somebody who actually pulls the trigger or sets the bombs off."

Mr. President, I was really shocked by the content of this article which says essentially that we have no control over our own borders even when it comes to prohibiting terrorists who have been convicted from entering the United States.

Mr. President, that is wrong. I was very pleased to see today, 5 days later,

and would commend President Clinton, a proposal that I think moves toward dealing with these types of incidents. The President yesterday moved to, in fact, deport illegal aliens faster and rebuffed civil libertarian objections by saying he will not surrender our borders that already leak like a sieve. The President said that:

We cannot tolerate those who traffic in human cargo, nor can we allow our people to be endangered by those who would enter our country to terrorize American citizens.

Mr. President, I agree with President Clinton in his proposal that would make it easier for our borders to be protected from people who seek to enter the United States illegally. There is no room for activities by people who deal in human cargo, as we have seen recently, where they charge outrageously high sums to people from other countries and then try to illegally bring them into the United States.

Mr. President, further, it is clear that those people who are convicted of terrorist activities in other countries, people whom we have good reason to believe are part of organizations that, in fact, deal in terrorist activities, should not be allowed to enter the United States of America. It is clear that there is a severe problem out there and that it needs to be addressed. I point out, in an article, again, on this issue, that people were admitted because under State Department policy "mere membership in a terrorist organization is not automatic grounds for exclusion."

Mr. President, how much of a message do we have to have that there are some people who are objectionable as far as being allowed the privilege of coming to the United States than a membership in a known terrorist organization? Do we have to wait for them to set off a bomb or pull the trigger before we say, "Wait a minute, we think there are certain types of individuals who should not be accorded the privilege of citizenship or the right to stay in our country." For the State Department to have a policy that says mere membership in a terrorist organization is not automatic grounds for exclusion, I think is wrong. I think when a person is clearly known to be a member of a terrorist organization, that should send us a message, and the message should be that, wait a minute, we are not going to allow this person to come into the United States.

I think the President is right on target. His aim of being able to deport illegal immigrants or illegal aliens that are trying to get into this country, in a swift and a quick fashion is, I think, right on target. I think his idea of proposing same-day hearings to have these people have their case heard quickly and deported unless they have a clear right to be in this country is clearly a proper course of action for our country. I think the President is right on target, and I commend him for his actions.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

Mr. President, at the outset, I associate myself with the remarks of the distinguished Senator from Louisiana. I, too, commend the President for the legislation he proposed yesterday. There is no reason why people should be able to come into this country when they are known to be terrorists. Where you have people who have come into this country who are not citizens, there is a whole range of procedure available to see to it that they do not stay in this country. It is not like the presumption of innocence or criminal prosecution. A great deal can be done to see to it that those people do not stay here posing a real risk to Americans.

PERSONAL PRIVILEGE

Mr. SPECTER. Mr. President, at the outset, let me take just 30 seconds for a point of personal privilege to explain why I am wearing this hat, as I did yesterday.

I had a cranial lesion recently, and the hat is worn strictly for purposes of decorum.

Mr. President, I share the frustration of the distinguished Senator from New York on the absence of the death penalty for terrorists and I have been actively working in this field for a decade, which led me to introduce Senate bill 1508, to authorize the death penalty for terrorists, on July 25, 1985; and to reintroduce S. 36 in the 101st Congress on January 25, 1989, to authorize the death penalty for terrorist murders; and in the following Congress, the 102d Congress, on January 23, as soon as we were in session, to introduce S. 245 to authorize the death penalty for terrorist murders; and then again in January 1993, in this Congress, to introduce Senate bill 248 to authorize the death penalty for terrorist murderers.

I pressed ahead seeking a vote on this matter, and on October 26, 1989, the Senate passed the death penalty for terrorist murderers by a vote of 79 to 20. Unfortunately, the bill was stripped in conference with all other death penalty provisions at the insistence of the House.

I renewed the effort to get the death penalty for terrorists on February 19, 1991, and pressed an amendment, which led Senator HATFIELD, the distinguished Senator from Oregon, to offer a second-degree amendment to require mandatory life in prison, which failed on a vote of 25 to 72. Then I pressed ahead with the death penalty for terrorists in a tabling motion, and the tabling motion failed 23 to 74; 74 Senators stated a preference for the death penalty, which was then passed on a voice vote; however, a second vote was not necessary. Again, the matter was stripped in conference.

It is very frustrating to see that there has not been activity on the death penalty for terrorists. The people who murdered six innocent Americans in the Trade Center incident bombing are not subject to the death penalty because the State of New York has no death penalty, and there is no Federal law providing for a death penalty.

I firmly am of the view that the death penalty is a deterrent even for terrorists, and I have spoken extensively on that subject in the past and have cited specific cases where murderers stated their concern about the imposition of the death penalty. I personally have handled cases as district attorney of Philadelphia which convinced me that the death penalty is an effective deterrent.

We have been unable to get a crime bill through the Congress, which is very, very disconcerting, and notwithstanding important legislation on Federal procedures for tying up the imposition of the death penalty, those matters have not been brought forward for legislative consideration.

In 1989, Senator THURMOND and I structured a very comprehensive reform of habeas corpus, which would have provided for a timetable for completing Federal actions so that the appellate process and the review process on habeas corpus could be considered within a reasonable period of time up to some 3 years. That has not been acted upon.

I am not quite sure how we proceed on this measure. I have brought the matter before the Congress on many occasions, which I have cited, going back to 1985 and have twice sought votes. I have looked for an appropriate bill to bring the death penalty for terrorism to the floor. I agree with the distinguished Senator from Oregon, the ranking member of the Appropriations Committee and the former chairman of the Appropriations Committee, that this bill is not the place for this measure because it is legislation. Although that might be overruled because Senators will not want to appear to be condoning terrorism without the death penalty, there is no conceivable question that this matter will be stripped in conference with the House.

I considered this bill and I decided not to bring renewed effort to have the death penalty considered because as a member of the Appropriations Committee, I did not think this would be an appropriate vehicle; and instead to consider a Department of Defense authorization bill. We are really at war with terrorism, and that may be a bill which is more appropriate.

The appropriate bill is a Judiciary Committee bill which comes out of our committee, but even that has been difficult because it is joined with so many

other matters. Perhaps the approach is to bring a separate bill out of Judiciary. That raises the issue about getting House concurrence. And the seriousness of terrorism really requires the death penalty. I do believe that it is factual that the terrorists are at war with the United States. I am hopeful that it does not take a major incident where countless Americans are murdered by terrorism and a major American city is tied up by terrorists, or worse, before we take some action.

We have under indictment at the present time two terrorists in Libya who have been charged with the blowing up of Pan Am flight 103. I have talked with officials at the Department of Defense about the possibility of a paramilitary action which would lead to the arrest of those individuals.

When we had someone charged with murder cornered someplace in Pennsylvania when I used to be district attorney, we would exercise sufficient force to bring out the person charged with murder. And if we can identify those involved in the most recent conspiracy with the charges being made, that they are in a number of foreign countries, and find a way to identify those individuals, I think it is worth considering enforcement action to take those individuals into custody and to bring them to the United States for trial.

I have done extensive work on the issue of extraterritorial jurisdiction in legislation in 1984, where for hijacking or kidnaping we can go outside the bounds of the United States. And then the Terrorist Prosecution Act of 1986, which this Senator authored, gives extraterritorial jurisdiction when any American is maimed or murdered anywhere in the United States. That was in response to the attacks on Americans, the murders of Americans in the Rome and Vienna airports in December of 1985.

So a great deal of action is necessary in enforcing existing laws and in bringing existing people under indictment, to the United States for trial. We did bring Fawaz Yunis, who was lured onto a fishing boat, to the United States for trial. As we speak, Fawaz Yunis is serving a 30-year-to-life sentence. That is an effective application of extraterritorial jurisdiction.

But it is my hope that we do not need a major incident or a major series of incidents to bring the United States to the point of taking action and recognizing that the terrorists are at war with the United States.

We have not responded. It reminds me of what President Reagan said early in his administration, that the Soviets like the arms race with the United States because the Soviets were the only ones in the arms race, not the United States. When the United States joined in, we brought the Soviet Union to their knees. I am confident that the United States has the power to bring terrorism to its knees if we apply ourselves properly.

So my efforts will continue, and I will be seeking an appropriate legislative vehicle and an appropriate move with the House to see if we cannot bring effective legislation which will impose the death penalty on terrorists, and which will enable us to move ahead, to proceed with the indictments which are now present.

One addendum—I told the distinguished Senator from Oregon I would speak 12 minutes, and I think I have about a minute to go, although I am not under a time constraint—is the efforts to have an international criminal court, a matter which this Senator has brought to the floor on a number of occasions. It appears now, as a result of the despicable acts in Yugoslavia, that world sentiment is rising for an international criminal court. It may be appropriate to have action by an international criminal court against those despots and murderers in Somalia.

It would be ideal if that international criminal court could be constructed so the United States would not have to act in a unilateral action. But we have taken the action on the indictments against the Libyan terrorists, and I believe we are going to have to take a much stronger stand than we have in order to protect American citizens against the potential problems from terrorism.

PRIVILEGE OF THE FLOOR

Mr. HATFIELD. Mr. President, I ask unanimous consent that John O'Neal, a member of Senator SMITH's staff, be granted privileges of the floor during the debate on the bill.

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

Mr. HATFIELD. First of all, I want to express my deep sympathy to the Senator from New York, [Mr D'AMATO] for the misery and the discomfort, and certainly anxiety, that must have been imposed upon him by the outrageous threats upon him; and for all who have been affected by the nemesis of terrorism—horrible crimes with horrible results. No one in any way can do other than condemn that kind of action or those kinds of threats.

Mr. President, this amendment relies on the false notion that the death penalty would deter these crimes.

I have been here since 1967 making these arguments year after year, and we have not had evidence to the contrary.

Twenty-five years ago, Senator Hart, the great Senator from the State of Michigan, for whom the Hart Building is named, introduced a bill to abolish the death penalty. Senator Hart at that time pointed out—and I believe it is still true—that the strongest case against capital punishment is the lack of a case for capital punishment.

Mr. President, the author of this amendment stated that the American people want this penalty. I only submit that a recent national bipartisan poll I have seen shows that 44 percent of the American people preferred alternatives like life imprisonment, while only 41 percent of those questioned chose the death penalty for first-degree murder.

Let me address deterrence. I reject the arguments regarding deterrence. I reject them because, first of all, I have stood on this floor and challenged those who have advocated and stated that deterrence is the result of capital punishment. If deterrence is valid, why not maximize that deterrence by broadcasting it in a way that more people are exposed to the horrors of capital punishment and the executions of people under such capital punishment?

But, no, that is barbaric; they do not want that—to maximize the deterrence. So I think that in itself indicates there is a weakness to that whole argument of deterrence.

Terrorists are ready to die for their cause. That is one of the characteristics of terrorists. They are not deterred by anything. With terrorists from the Middle East, the situation is even more complicated. If Moslem perpetrators believe they are participating in a Jihad, a holy war, then their death assures them a place in Heaven. Add that complexity and that dimension to terrorists coming out of the Moslem faith, or out of the Middle East as part of that culture. They have a religious incentive to commit terrorism. So how is deterrence going to work against that kind of mentality?

The Senator from New York spoke yesterday about his concern for state-sponsored terrorism, a concern we all share. But surely we all know from long experience that despots use their people as pawns in carrying out their acts of war and terrorism. And pray tell me what kind of a deterrence is going to have any influence upon such leaders? State-sponsored terrorism is part of their policy. The death penalty will not change this fact of history.

Most experts agree that there is no empirical evidence to support the claim that the death penalty serves as a deterrent to murder. We hear a lot about the so-called tests that have been put to this question by comparing one State to another. Death-penalty States as a group do not have lower rates of criminal homicide than other States. During the 1980's death-penalty States averaged an annual rate of 7.5 homicides per 100,000 population, States without the death penalty averaged a rate of 7.4 per 100,000. States without the death penalty had lower murder rates.

Death-penalty States do not have a lower incidence of attacks on police or prison guards. Between 1984 and 1989, 17 prison staff were murdered by prisoners in 10 States, and 15 of the 17 took place in States that have the death penalty.

This is empirical evidence.

Mr. President, I can again understand, because I share the anxiety, I share the outrage, of how terrorism has snuffed out the lives of innocent people.

But I do not believe that adding a death penalty is going to in and of itself correct that problem. Nor will it have any measurable impact when you are dealing with a terrorist's mentality that is a little off center to begin with—to even be a terrorist and then you add the religious incentive to at least those terrorists who come out of the Middle East.

Mr. President, having stated this, and I have stated it many times, I am not going to take further time of the Senate to repeat many of the arguments those of us who oppose the death penalty have used.

At this time I want to ask for the inclusion in the RECORD a very interesting document. My good friend, the Senator from Pennsylvania, as he stated in his remarks a few moments ago, has been very much involved in this issue of death penalties for terrorism for many years and has raised it in terms of vehicles to the Senate and in the committees.

I have before me a very scholarly article written by the Senator from Pennsylvania in the Dickinson Law Review, the summer of 1991 edition.

Even though I totally disagree with the Senator's view on this issue, I think this is of such significant importance in discussing and dealing with terrorism in some alternative ways that this Senate, through our committees and through other vehicles than this bill, really has to have a priority on this subject that we have not had in the past.

This is a historic and very scholarly piece of writing by our colleague. I think we all take pride in our colleagues who make contributions to knowledge and understanding through their scholarly concern.

Mr. President, I ask unanimous consent that this scholarly piece, which totally disagrees with my view and my position, be printed in the RECORD at this time, and I do so with pride.

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

[From the Dickinson Law Review, summer 1991, Vol. 95, No. 4]

THE TIME HAS COME FOR A TERRORIST DEATH PENALTY LAW

(By Senator Arlen Specter*)

I. INTRODUCTION

A death penalty provision for terrorists who murder is long overdue. In 1989, the Senate overwhelmingly passed legislation that I sponsored to authorize the death penalty for terrorists who murder United States nationals abroad. This legislation was eventually excised by a House-Senate Conference that hammered out final passage of the Omnibus Crime Control Act of 1990.[1] Most recently, on February 20, 1991, the Senate once again passed terrorist death penalty legislation. This amendment to the Omnibus Export Amendments Act of 1991 also includes domestic terrorist murders.[2] As of this writing, that legislation is awaiting action in the House of Representatives.

Passage of a death penalty law will send the clear message that the United States will deal swiftly and harshly with terrorists. The 1970s and 1980s witnessed a rash of terrorist acts abroad. When captured, those terrorists were virtually patted on the back for their heinous acts. Often they received light sentences. Foreign countries shielded them from prosecution. These countries either sought to curry political favor with the responsible groups or were simply intimidated. Consider these illustrations:

"On March 1, 1973, Palestinian gunmen, belonging to the Black September Organization, burst into the Saudi Arabia Embassy in Khartoum, Sudan, during a reception. When their demands were not met, they seized, and then murdered, United States Embassy Counselor George Curtis Moore, United States Ambassador Cleo A. Noel, Jr. and Belgian Charge d'Affaires Guy Eid.[3] A Sudanese court tried and sentenced the terrorists to life in prison. President Nimeiry then reduced the sentences to seven years and sent the terrorists to serve that time with the Palestine Liberation Office in Cairo.[4]

"In 1977, Abu Daoud was arrested in Paris for coordinating the murder of eleven Israeli athletes at the 1972 Olympic games in Munich. He was released four days later to be deported to Algeria, where he received a hero's welcome.[5]

"In 1985, Italy released, without explanation, Mohammed Abul Abbas, the suspected mastermind of the Achille Lauro hijacking and murder of an American passenger, Leon Klinghoffer."[6]

Terrorist acts against Americans abroad during Operation Desert Storm and Operation Desert Shield caused American military installations, both at home and abroad, to increase security precautions as terrorist incidents rose to alarming levels.[7] Despite increased security precautions, from January 18 to March 24, 1991, the State Department documented hundreds of significant security incidents.[8] In particular, on February 7, 1991, gunmen assassinated a retired American serviceman who was employed at an air base in Adana, Turkey.[9] This base was used for bombing raids on Iraq. Again, shortly after Allied forces defeated the Iraqi forces, an American military employee in Turkey was shot execution-style.[10]

Some foreign countries, however, have demonstrated an inability to confront the terrorist threat. As our forces fought a leader who unleashed terrorist actions against Israeli and Saudi Arabian civilians, two Palestinians convicted in the Achille Lauro hijacking were released early from jail and expelled from Italy.[11] Justice was not served. A terrorist death penalty law will show individuals that acts of international terrorism against the United States will not go unpunished.

Despite the need for a terrorist death penalty, some of my colleagues have voiced arguments against such legislation. Some question whether the legislation has a sufficiently precise definition of terrorism, especially when the proposed legislation was expanded to include domestic acts of terrorism. Others wonder whether terrorists who are motivated by ideological and religious fervor would be deterred by a death penalty law. Finally, some question whether such legislation will increase problems in extraditing criminals to the United States for trial.

This article begins with an analysis of the evolution of legislation regarding a death penalty provision for terrorists. Part III considers the definitional obstacle present in enacting suitable legislation. Part IV discusses the deterrent effect that death penalty legislation will have on violent terrorist acts. In Part V, the potential problem of extradition is considered in light of death penalty legislation. This article concludes by advocating the adoption of terrorist death penalty legislation.

II. EVOLUTION OF TERRORIST DEATH PENALTY LEGISLATION

On July 11, 1985, I introduced the Terrorist Prosecution Act (S. 1429).[12] This legislation would criminalize, under United States law, terrorist attacks upon American nationals abroad. On February 19, 1986, the Senate unanimously passed S. 1429.[13] This provision became law as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.[14] The law creates extraterritorial federal jurisdiction for specific terrorist acts, including: (1) the murder, voluntary manslaughter or involuntary manslaughter of a United States national outside the United States; (2) attempts or conspiracies to kill a United States national abroad; and (3) physical violence outside the United States committed with intent to cause serious bodily injury or which results in serious bodily injury to a United States national.[15] Paragraph (a) of the section covers homicide. It provides:

"(a) Homicide.—Whoever kills a national of the United States, while such national is outside the United States, shall—

"(1) if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both."[16]

The statute also provides that prosecutions are not to be undertaken unless the Attorney General, or the "highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions," certifies, in writing, that in his or her judgment the "offense was intended to coerce, intimidate or retaliate against a government or a civilian population."[17]

Even at the time of the original passage of S. 1429, I envisioned adding a provision allowing the death penalty for other crimes committed by terrorists. On July 26, 1985, I introduced S. 1508 to authorize the death penalty for terrorists who commit first-degree murder.[18] Again in the 101st Congress, I introduced S. 36 to provide the death penalty for terrorist murder, as well as for other criminal acts.[19] I also offered the terrorist death-penalty provision, this time standing alone, as an amendment to the 1990 Foreign Relations Authorization Act on July 19, 1989.[20] I withheld pushing for that amendment after the Majority Leader agreed to schedule a vote on the terrorist-death penalty legislation for later than year.[21] The terrorist-death penalty provision, introduced as S. 1798, a free-standing bill, was taken up in the Senate for a vote on October 26, 1989.[22]

Footnotes at end of article.

Senate Bill 1798 (S. 1798) was limited to murders of United States nationals abroad. It simply added a phrase to the paragraph dealing with murder, paragraph (1) of now-subsection of 2332(a). That paragraph in turn referred to 18 U.S.C. §1111(a) for the definition of first-degree murder.[23] S. 1798, if enacted into law, would have added a phrase that the court "may impose a sentence of death in accordance with the procedures set forth in section 7001 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. §848)."[24]

During the debate on S. 1798,[25] Senator Joseph Biden, Chairman of Senate Judiciary Committee, pointed out that S. 1798 could also be read to refer to second-degree murder since section 111(a) defines first-degree murder as:

"Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killing, is murder in the first degree."[26]

Section 1111(a) proceeds, however, to state that "[a]ny other murder is murder in the second degree."[27] Thus, S. 1798's reference to section 1111(a) was, without more, insufficient to indicate that the death penalty was meant to apply solely to first-degree murder. The ambiguity was clarified and replaced with the following:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both;

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned."[28]

With this change making it clear that the death penalty would only apply to first-degree murder, this legislation passed overwhelmingly by a vote of seventy-nine to twenty.[29]

On January 23, 1991, as the 102d Congress convened, I introduced the Terrorist Death Penalty Act of 1991 (S. 245).[30] S. 245 was nearly identical to S. 1798 except for a few changes. For example, in S. 245, I incorporated the careful and exhaustive procedural aspects of the death penalty provisions of the Anti-Drug Abuse Act of 1988 into the bill itself. These provisions are designed to ensure that counsel for a defendant meet minimum standards: five years of membership in the bar and three years experience litigating felony cases in federal courts. The bill retained an exclusion for defendants under age eighteen at the time of the crime, the mentally retarded, and the mentally disabled. Another change, designed to make clear that only the most egregious acts of terrorism would result in the death sentence, required the government to prove beyond a reasonable doubt that the murder constituted first-degree murder, and that the defendant:

"(A) intentionally killed the victim;

"(B) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(C) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct." * * *[31]

On February 19, 1991, I offered a modified version of S. 245 as an amendment to the Omnibus Export Amendments Act of 1991.[32] Because of concerns expressed by Senator Strom Thurmond that domestic acts of terrorism should be included in the legislation,[33] the bill was changed, adding the death penalty for terrorists who murder individuals inside the United States.[34] Indeed, domestic acts of terrorism, although fortunately infrequent, are as grave a danger as terrorist acts abroad. The following provide examples of recent terrorist acts that have occurred within our borders: (1) the car bombing of Orlando Letelier, ambassador of the former Chilean Government of Salvador Allende Gossens, and Ronni Moffitt, a United States citizen, on September 21, 1976 on Washington's Embassy Row;[35] (2) in 1989 car bombing of Sharon Rogers', wife of the Navy Captain whose vessel accidentally shot down an Iranian civilian airliner;[36] and (3) the bombing of the United States Senate in 1983.[37] Furthermore, other acts of domestic violence potentially fall under the rubric of terrorism: the murder of Jewish activist Meir Kahane in New York City in 1990 and the murder of Arab-American activist Alex Odeh in California in 1985.[38]

Accordingly, the modified amendment would read as follows:

"(a) Homicide.—Whoever kills a person while such person is inside the United States, or kills a national of the United States, while such national is outside the United States, shall—

"(1)(a) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or both so fined and so imprisoned; and

"(b) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned * * *."[39]

The addition of domestic acts of terrorism created the need for a definition of terrorism in the statute itself. As the statute now reads, the Attorney General need only certify that the offense "was intended to coerce, intimidate, or retaliate against a government or a civilian population."[40] As will be explained shortly,[41] however, there was a concern that a definition of terrorism that was too narrow would unduly restrict prosecutors. Consequently, during Senate debate in February 1991, a compromise was reached whereby the first portion of section 2332(a) would be changed as follows:

"(a) Homicide.—

"(A) Whoever kills a person, with the intent to commit an act of terrorism, which is any act which appears to be intended to intimidate, retaliate against or coerce a civilian population; to influence the policy of a government by intimidation, retaliation or coercion; or to affect the conduct of a government by assassination, kidnapping, hostage-taking or other violent act, while such victim is inside the United States; or

"(B) Whoever kills a national of the United States, while such national is outside the United States; shall * * *."[42]

After a motion to table the amendment failed, the amendment passed by voice vote.[43] The Omnibus Export Amendments Act of 1990 passed by the Senate by voice vote later that same day and, as of this writing, is awaiting action by the House of Representatives.

III. THE DEFINITION OF TERRORISM

Definitional problems plague legislation on terrorism. As Robert A. Friedlander, former Minority Chief Counsel of the Senate Foreign Relations Committee, notes, "definition is the rock upon which many anti-terrorism legislative proposals have foundered."[44] When I first introduced S. 1429 in 1985, the definition of terrorism contained in the bill was the only definition of terrorism in the United States Code.[45] That definition found in the Foreign Intelligence Surveillance Act (FISA) of 1978,[46] defined "international terrorism" to mean activities that:

"(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

"(2) appear to be intended—

"(A) to intimidate or coerce a civilian population;

"(B) to influence the policy of a government by intimidation or coercion; or

"(C) to affect the conduct of a government by assassination or kidnapping; and

"(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum."[47]

The Justice Department, which opposed the incorporation into law of any terrorism definition, persuaded the Judiciary Committee's Subcommittee on Security and Terrorism to remove the FISA definition from S. 1429.[48] When S. 1429 reached the floor, it had no definition of terrorism. Senator Hatch noted that some definition was necessary.[49] Before the legislation was passed by the full Congress, a provision was inserted to provide that no prosecution for any offense described . . . shall be undertaken except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that . . . such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.[50]

This compromise recognized the President's broad, albeit not unlimited, constitutional authority in foreign policy[51] by giving him needed flexibility in determining which violent acts constitute terrorist incidents. At the same time, it also constrained the Executive's discretion by including a sufficiently circumscribed definition of terrorism.

The Justice Department argued that a definition of terrorism would place the government, at trial, in the awkward and embarrassing position of having to explore and explain the defendant terrorist's cause.[52] But as Friedlander has pointed out, this argument loses much of its persuasiveness in the case of first-degree murder prosecutions. For first-degree murder, the government has the burden of proving motive in order to establish the essential elements of premeditation and malice aforethought, and thus it must delve into the defendant terrorist's cause regardless.[53] Certainly, whether or not there is a definition of terrorism in the statute, the government must show that the terrorist believed in a cause and acted pursuant to those beliefs.

The government, in particular the State Department, also argued that codification of

a definition of terrorism would make it almost impossible to negotiate international agreements on terrorism. It further argued that the Executive needed flexibility in determining which acts of violence abroad were terrorist incidents.[54] Friedlander rejects this argument as "wooly-headed thinking" that is "exactly the kind of mind-set which makes possible the absurd notion that one person's terrorist is another person's freedom fighter."[55] Although I understand these criticisms, I believe that the compromise reached on S. 1429 was the best possible result under the circumstances: it incorporated a sufficiently precise definition of terrorism, while recognizing the President's constitutional powers to regulate foreign affairs.

These definitional concerns were again brought to the forefront when the terrorist death penalty amendment to the Omnibus export Amendments Act of 1991 was modified to cover domestic acts of terrorism. Since section 2332 left the decision of whether an offense constituted an act of terrorism to Attorney General, or his subordinates, Senator Metzenbaum rose to question whether the death penalty could now apply to any domestic act of violence:

"D[o] I understand that this whole measure * * * has to do with terrorism, and yet we do not have terrorism defined in any place that I can find? But what we do have is * * * the judgment of the * * * Attorney General, or a subordinate, to prove that the offense was intended to coerce, intimidate, or retaliate against the Government or civilian population * * *. [Y]ou could very well have somebody go into a school yard and mow down a number of children, as we know happened in [California]. Or you could have somebody with an Uzi or one of these semi-automatic guns mow down a number of police officers who were meeting in a group, or a group of civilians. And the question that I have is, when is a terrorist a terrorist? And does the fact the Attorney General or his subordinate—does his certification that the offense was intended to coerce, intimidate, or retaliate against the Government or civilian population make the defendant a terrorist per se?"[56]

Senator Metzenbaum raises a meritorious point. Without a definition of terrorism, the legislation could apply a federal death penalty to common acts of domestic violence that would be more appropriately the province of state law enforcement officials. Moreover, section 2332 left to the Attorney General the decision of what constituted a terrorist incident, primarily in recognition of the constitutional authority granted to the President to regulate foreign policy. No such defence is accorded the President in the area of domestic criminal violence.

On the other hand, proponents of a more restrictive definition may go too far in unduly restricting federal prosecutors from seeking the death penalty for actual terrorist acts occurring in the United States. For example, the Comprehensive Counter-Terrorism Act of 1991, a bill introduced by Senator Biden, limits the death penalty for domestic terrorism to acts by "agents of a foreign power," a definition derived from the FISA.[57] That definition, however, excludes acts of terrorism conducted by indigenous terrorist groups not connected to a foreign power.[58] There have been several acts of domestic terrorism committed by wholly-domestic terrorist groups. For example, the 1983 bombing of the Capitol building was conducted by a group of militant members of the Black Liberation Army with no connection to any foreign power.[58] There have been several acts of domestic terrorism committed by wholly-domestic terrorist groups. For example, the 1983 bombing of the Capitol building was conducted by a group of militant members of the Black Liberation Army with no connection to any foreign power.[59] This definition would also exclude Puerto Rican nationalist groups, like the clandestine Fuerzas Armadas de Liberacion Nacional (F.A.L.N.) and the terrorists who sprayed the House of Representatives floor with gunfire in 1954, wounding and killing several Members of Congress.[60] Just as importantly, there are many kinds of hate groups, like the Ku Klux Klan and Aryan Nation, which fall into a "gray" area: many Americans would justifiably consider them to be terrorist groups. Finally, the definition of "agent of a foreign power" may not cover terrorists committing acts who, although motivated by support of foreign forces, have insufficient connection with a foreign-based group.

Faced with this problem, a compromise was reached with Senators Biden and Thurmond. The compromise required that, for domestic acts of terrorism only, the government must also prove that the offender committed the killing with the intent to commit an act of terrorism, which is any act which appears to be intended to intimidate, retaliate against or coerce a civilian population; to influence the policy of a government by intimidation, retaliation or coercion; or to affect the conduct of a government by assassination, kidnapping, hostage-taking or other violent act.[61]

Under this definition, the prosecution would have to prove beyond a reasonable doubt that the domestic act of violence was intended to be an act of terrorism. This would be in addition to the requirement in section 2332(d) that the Attorney General certify that the acts committed were acts of terrorism.

Therefore, the decision of whether the act constituted an act of terrorism is placed before a jury. Under this definition, prosecutors receive sufficient flexibility to prosecute domestic varieties of terrorism, without giving them carte blanche for prosecuting violent acts that are simply not terrorist-inspired.

IV. DETERRENT EFFECT ON TERRORISTS

Based on many years of experience as a prosecutor, I believe that the death penalty has a general deterrent effect on violent crime, including terrorism. The evidence amassed by California Supreme Court Justice McComb in his dissent in *People* v. *Love*[62] is very persuasive. This evidence demonstrates that, on a number of occasions, criminals were deterred from committing more violent acts because they feared the death penalty.

Three examples illustrate this proposition. Margaret Elizabeth Daly was arrested on August 28, 1961 for assaulting an individual with a knife. She told investigating officers: "Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber."[63] Louis Joseph Turck did not carry a gun on a robbery as he had in the past because, "I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."[64] Orelius Matthew Stewart was arrested on March 3, 1960 for attempted bank robbery. He later stated: "The officer who had arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber."[65] These cases, and many more like them, demonstrate that the death penalty does have deterrent effect on violent crimes.

Some Senators, however, have questioned whether imposition of the death penalty for terrorist-murderers would have any deterrent effect. Many argue that terrorists are motivated by fanaticism and would not be deterred by the death penalty. This point was made by Senator Hatfield during the 1989 debate on the death penalty legislation:

"There are those who claim that a death penalty for terrorists will deter future terrorist acts. Deterrence, however, presuppose rational conduct on the part of the person to be deterred. Terrorists, calculating as they may be, are fanatics who are not afraid to die—and members of terrorist organizations view their comrades who die in support of the cause as martyrs. Execution of terrorists in this country will only serve to give terrorist organizations the publicity they so ravenously seek—and offer martyrdom as a reward for their brutality. In fact, Mr. President, it is all together possible that the execution of terrorists will increase acts of terror rather than stop them."[66]

Concededly, some terrorists are clearly suicidal; nothing will deter them. This criticism, however, does not recognize the considerable evidence that terrorists often receive light sentences and that would-be terrorists know that their groups will see to it that they will be freed. Would-be terrorists know that Abu Daoud, Mohammed Abul Abbas, the terrorist who killed the United States Ambassador to the Sudan, and, most recently, several hijackers of the Achille Lauro, for all practical purposes, got off scot-free.[67]

There's is evidence that, even without a death penalty for violation of United States anti-terrorism laws, these laws have a deterrent effect. Terrorists fear extradition to the United States precisely because justice in United States courts is decisive and swift. For example, after Sheik Obeid was captured in Lebanon by the Israelis in 1989, he told his captors that he was "terrified" of being extradited to the United States for the murder of American hostages in Lebanon. This was because the United States would not bend to political pressure and would exact swift punishment.[68] The terror is not imaginary. As long as even one terrorist is dissuaded from attacking an American because of the death penalty statute, the statute will have saved precious lives.

Critics fail to recognize that the imposition of the death penalty for a terrorist would remove that individual as a target for release through further terrorist acts.[69] For example, the terrorists who held hostage the United States Ambassador to the Sudan did so in order to obtain the release of Sirhan Sirhan, the killer of Senator Robert Kennedy, and Abu Daoud, a PLO operative in jail in Jordan.[70] Many, if not most, of the hostages currently held in Lebanon, plausibly were seized in order to trade for the release of Shiite terrorists held in jail in Kuwait.[71]

Finally, regardless of its deterrent value, the death penalty for terrorist expresses our society's moral revulsion toward terrorism. In *Gregg v. Georgia*,[72] Justice Potter Stewart, joined by Justice Powell and justice Stevens, wrote as follows: "Indeed, the decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death."[73] He continued: "[C]apital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered

society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs."[74] Passage of a death penalty law will send a clear message to terrorists: the United States will punish terrorists swiftly and invoke the death penalty when appropriate.

V. EXTRADITION OF TERRORISTS TO THE UNITED STATES

Another potential problem that death penalty opponents raise is that a death penalty law for terrorists would complicate extradition of terrorists to the United States. During the October 1989 debate on the terrorist death penalty legislation, Senator Kennedy noted that extradition treaties currently in effect with twenty countries permit those countries to refuse to extradite criminals, unless the country requesting extradition refuses to seek the death penalty.[75]

When a country refuses to extradite a criminal unless the United States agrees not to seek the death penalty, the United States has no choice but to agree to such terms. To use the extradition problem as an argument against the death penalty, however, merely obscures the issue. The addition of the death penalty option does not require United States law enforcement officials to seek the death penalty, it merely affords them the option of invoking the death penalty.

Furthermore, there are many cases of terrorism in which the death penalty can be utilized when extradition is not at issue. As shown in the case of Fawaz Yunis, the Lebanese hijacker of a Royal Jordanian airliner in Beirut in 1985, United States law enforcement officials have the extraterritorial jurisdiction to apprehend terrorists when possible.[76] In that case, the Lebanese terrorist was lured aboard a private yacht off the coast of Cyprus by a friend who promises a drug deal and a party.[77] Yunis's challenge to the assertion of extraterritorial jurisdiction was dismissed by the United States Court of Appeals for the District of Columbia Circuit on January 29, 1991.[78] The court found that Congress's decision to give antiterrorism laws extraterritorial reach is justified by two jurisdictional theories of international law. First, it is justified under the "universal principle," whereby any state may prosecute terrorism regardless of where it occurred because it is a crime of universal concern.[79] Second, it is justified under the "passive personal principle," whereby a state may punish non-nationals for crimes committed against its nationals outside of its territory when the state has a particularly strong interest in the crime.[80]

Yet, the critics rightly note that extradition is a serious problem today. Indeed, even when the possibility of the death penalty is not at issue, extradition is a thorny problem. For example, there is the problem of Columbia's refusal to extradite drug kingpins to the United States to face trial.[81] Sovereignty concerns, political pressure, and bold threats of violence sometimes force foreign countries to refuse to extradite criminals to the United States. That is why I, along with international leaders such as Prime Minister Manley of Jamaica and President Gaviria of Colombia, and distinguished international law scholars, advocate the creation of an international criminal court. This court would be used to try violations of international law, including international drug trafficking and international terrorism.[82] Last year, Congress passed, and the President signed into law, an amendment I introduced to the 1991 Foreign Operations Appropriations Act. The amendment[83] for the President to report to Congress by October 1, 1991 the results of his efforts to establish an international criminal court.[84] The amendment also calls for the Judicial Conference of the United States to report to Congress by the same date on the feasibility of an international criminal court and its proposed relationship to the federal judiciary.[85]

Problems of extraditing criminals are compounded when the death penalty is a potential punishment. There is some evidence, however, that even countries that have banned the death penalty will extradite those who have allegedly committed heinous crimes, like terrorism, without requiring an assurance that the death penalty will not be used. Of course, in many of those situations, such individuals are able to utilize domestic, and even international, court procedures to challenge the decision not to invoke the treaty option. For example, in the case of Charles Ng, who is charged with a series of grisly slayings in Northern California, Canadian authorities decided not to invoke their treaty option.[86] Lawyers for Ng, however, unsuccessfully sought a ruling from the Canadian Supreme Court that would require Canadian authorities to invoke their treaty option.[87] By contrast, despite a similar provision in the United States 1978 extradition treaty with Mexico, Mexican authorities dispensed with extradition proceedings and immediately deported Ramond Salcido, Salcido was sought by California authority for a 1989 rampage in Redwood City, California, where he allegedly killed his wife, two daughters, and four other people.[88]

In a far more troublesome case, Jans Soering, who was sought by Virginia authorities on charges on the cruel murder of his girlfriend's parents, fled to the United Kingdom. Although British officials sought and received an assurance from Virginia authorities that the death penalty would not be used, Soering's lawyer's appealed to the European Court of Human Rights. The court adopted the view that long delays in habeas corpus appeals of death sentences in the United States was itself violative of the European Convention on Human Rights ban on inhuman or degrading treatment.[89] Extradition was only permitted when the Virginia authorities dropped the proposed relationship to the federal judiciary.[85]

Problems of extraditing criminals are compounded when the death penalty is a potential punishment. There is some evidence, however, that even countries that have banned the death penalty will extradite those who have allegedly committed heinous crimes, like terrorism, *without* requiring an assurance that the death penalty will not be used. Of course, in many of those situations, such individuals are able to utilize domestic, and even international, court procedures to challenge the decision not to invoke the treaty option. For example, in the case of Charles Ng, who is charged with a series of grisly slayings in Northern California, Canadian authorities decided not to invoke their treaty option.[86] Lawyers for Ng, however, unsuccessfully sought a ruling from the Canadian Supreme Court that would require Canadian authorities to invoke their treaty option.[87] By contrast, despite a similar provision in the United States 1978 extradition treaty with Mexico, Mexican authorities dispensed with extradition proceedings and immediately deported Ramond Salcido. Salcido was sought by California authorities for a 1989 rampage in Redwood City, California, where he allegedly killed his wife, two daughters, and four other people.[88]

In a far more troublesome case, Jans Soering, who was sought by Virginia authorities on charges of the cruel murder of his girlfriend's parents, fled to the United Kingdom. Although British officials sought and received an assurance from Virginia authorities that the death penalty would not be used, Soering's lawyer's appealed to the European Court of Human Rights. The court adopted the view that long delays in habeas corpus appeals of death sentences in the United States was itself violative of the European Convention on Human Rights ban on inhuman or degrading treatment.[89] Extradition was only permitted when the Virginia authorities dropped the capital murder charge.[90]

Although we should ensure that those countries which do choose to extradite without assurances are rewarded, we must remember that those foreign countries opposed to the death penalty are opposed for sincere moral, religious, and ethical reasons. We must also respect the court systems of other countries and the rights of defendants to litigate these issues in those court systems. As such, the United States must be sensitive to these concerns in order to remain a successful actor on the world scene and not invite retaliation by other countries. The problem of extradition, however, in no way undermines the need for a death penalty for terrorists. Such a death penalty would give federal prosecutors an added tool in prosecuting terrorists. They can use it or, if a foreign country objects to extradition, they can agree not to seek the death penalty.

VI. CONCLUSION

For far too long we have allowed the terrorist menace to fester without any coherent and sustained response. Five years ago, at a February 1986 Senate Subcommittee hearing, I stated that "[a]lthough we have had some tough talk on terrorism, we have had very little tough action on terrorism * * *."[91] Those words are as true now as they were then. Attention and resources are often devoted to terrorist issues only after a major terrorist incident, and are not usually sustained. The threat of terrorism unleashed by Iraqi President Saddam Hussein and the heightened concern with security have once again brought the issue of terrorism under public scrutiny. A terrorist death penalty will send a clear message to terrorists everywhere that the United States will punish severely any action taken against Americans, anywhere. Let us hope that this time we will not allow the moment to pass without concrete action.

FOOTNOTES

*R.-Pennsylvania. Senator Specter is a member of the Senate Judiciary Committee, the Appropriations Committee, and the Veterans' Affairs Committee.

Thomas N. Dahdouh, Minority Counsel to the Senate Judiciary Committee's Subcommittee on the Constitution, assisted in the preparation of this article.

[1] Pub. L. No. 101-647, 104 Stat. 4789 (1990).

[2] S. 320, 102d Cong., 1st Sess. (1991). The Senate passed this amendment on Feb. 26, 1991.

[3] Korn, We Will Not Pay Blackmail: The Khartoum Murders and U.S. Policy on Terrorism, Foreign Service J. 28 (Feb. 1991).

[4] Id. at 31.

[5] The French may have yielded to political pressure and fear of reprisals. Hannay, The Legislative Approach to the Political Offense Exception, in Legal Responses to International Terrorism: U.S. Procedural Aspects 115, 116 n.5 (M.C. Bassiouni ed. 1988) [hereinafter Bassiouni, Terrorism].

[6] PLO Leader Slips From U.S. Grasp in Italy; U.S. Protests Abbas' Departure After Issue of Arrest Warrant, Wash. Post, Oct. 13, 1985, at A1, col. 3.

[7] N.Y. Times, Jan. 19, 1991, at A9, col. 3; N.Y. Times, Jan. 16, 1991, at A15, col. 1; Congress of the United States, Office of Technology Assessment Report, Technology Against Terrorism: The Federal Effort—Summary (1990).

[8] These lists are on file with the Dickinson Law Review.

[9] American Is Slain in Turkey, N.Y. Times, Feb. 8, 1991, at A11, col. 1.

[10] American is Slain in Turkey; Leftist Group Cities Gulf Link, N.Y. Times, March 23, 1991, at 5, col. 1.

[11] Terrorists Get Early Release, N.Y. Times, Feb. 6, 1991, at A11, col. 5. These terrorists were Issa Abbas, a cousin of the fugitive Palestine Liberation Front leader Abul Abbas, and Youssef Saad. Abbas received a seven year sentence in 1986, while Saad received a six year term. They were released from prison on Christmas Eve under a law allowing a two year reduction during the Christmas season.

[12] 131 CONG. REC. 18870–71 (July 11, 1985) [hereinafter S. 1429].

[13] 132 CONG. REC. 2355–60 (Feb. 19, 1986).

[14] Pub. L. No. 99–399, 100 Stat. 896, §1201(a) (1986). At the end of the 101st Congress, Congress passed the Anti-terrorism Act of 1990, which added a civil remedy of treble damages for acts of international terrorism. Pub. L. No. 101–519, 104 Stat. 2240, 2250–53, §132 (1990). This public law, which was co-sponsored by Senator Charles Grassley (R–Iowa) and myself, recodified the criminal provisions of 18 U.S.C. §2331 as 18 U.S.C. §2332, while leaving them substantively unchanged. It was later discovered that the House-Select Conference intended that the Anti-terrorism Act be deleted from Pub. L. No. 101–59, but the Act was accidentally left in by a clerk and was signed by the President. *See* 136 CONG. REC. S2500–05 (daily ed. Feb. 28, 1991) (remarks of Senators Byrd (D-W. Va.), Heinz (R.-Pa.), Specter, and Grassley). Consequently, the Act was repealed on April 10, 1991 by H.R. 1281, 102d Cong., 1st Sess., P.L. 102–27, 105 Stat. 130, 155, §402. However, the Senate has passed the Act again, *see* 136 CONG. REC. S4511–12 (daily ed. April 16, 1991), and there is every reason to believe that the House of Representatives will follow suit, so that the Act will once again become law. Thus, throughout this article, I will refer to the provisions of Chapter 113A of Title 18 as if the Anti-Terrorism Act were still in force.

[15] *See* George, *Federal Anti-Terrorist Legislation*, in Bassiouni, TERRORISM, *supra* note 5, at 31–33 (providing comprehensive analysis of this statute and other antiterrorist statutes).

[16] 18 U.S.C. §2332(a) (1988 & Supp. 1991).

[17] *Id.* 2332(d) (as recodified from 18 U.S.C. §2331(e) by Pub. L. No. 101–519, 104 Stat. 2240, 2250, §132(b)(1) (1990)).

[18] I planned to add it to S. 1429 when that legislation reached the Senate floor. However, in the interest of ensuring smooth passage of S. 1429, I did not pursue this avenue. 131 CONG. REC. 20779–81 (July 26, 1985).

[19] 135 CONG. REC. 114–18 (daily ed. Jan. 25, 1989).

[20] Amend. 325 to S. 1160, 101st Cong., 1st Sess. 135 CONG. REC. S8290 (daily ed. July 19, 1989).

[21] 135 CONG. REC. 8402–08 (daily ed. July 20, 1989).

[22] 135 CONG. REC. 14205–31 (daily ed. Oct. 26, 1989).

[23] S. 1798, 101st Cong., 1st Sess. (1991).

[24] *Id.*

[25] 135 CONG. REC. 14218–20 (daily ed. Oct. 26, 1989) (remarks of Sen. Biden, D-Del.).

[26] 18 U.S.C. §1111(a) (1988).

[27] *Id.*

[28] 135 CONG. REC. S14230 (daily ed. Oct. 26, 1989).

[29] *Id.* Consideration of this legislation was included in the House-Senate Conference on the Omnibus Crime Control Act of 1990, convened in the waning days of the 101st Congress in October 1990. Because of the press of time and the conferees' inability to come to agreement on several controversial issues—not only the death penalty for terrorists but provisions for the death penalty for many other crimes, *habeas corpus* reform, and a ban on assault weapons—all controversial provisions of the legislation, including the provision for a death penalty for terrorist-murderers, were excised from the final version. *Crime Bill: Tough Talk, Weak Action*, Newsday, Oct. 30, 1990, at 17.

[30] I requested an early scheduling of a vote on the legislation because of the threat of terrorist incidents during Operation Desert Storm. 137 CONG. REC. S1069–82 (daily ed. Jan. 23, 1991). My colleague from Pennsylvania, Congressman George Gekas (R.-Pa), introduced this legislation in the House of Representatives as H.R. 639, 102d Cong., 1st Sess. (Jan. 24, 1991).

[31] S. 245, 102d Cong., 1st Sess., 137 Cong. Rec. S1069–82 (daily ed. Jan. 23, 1991).

[32] Amend, 3 to S. 320, 102d Cong., 1st Sess., 137 Cong. Rec. S1902–03 (daily ed. Feb. 19, 1991).

[33] 137 Cong. Rec S1905 (daily ed. Feb. 19, 1991) (remarks of Sen. Thurmond, R.–S.C.).

[34] 137 Cong. Rec. S1902–03 (daily ed. Feb. 19, 1991).

[35] Chile Agrees to Pay Reparations to U.S. in Slaying of Envoy, N.Y. Times, May 13, 1990, at 1, col. 6.

[36] Personal Vendetta Is Seen as the Motive for Bombing of Van, N.Y. Times, Oct. 2, 1989, at B11, col. 6; Blast Wrecks Van of Skipper Who Downed Iran Jet, N.Y. Times, March 11, 1989, at 1, col. 2; see also S. Res. 214, 101st Cong., 1st Sess., 135 Cong. Rec. S16106 (daily ed. Nov. 20, 1989) (A resolution calling for a reward for the arrest of individuals responsible for the bombing of Sharon Rogers' car).

[37] Capitol Security Is Tightened After Bombing, N.Y. Times, Nov. 9, 1983, at A1, col.4.

[38] Suspect in Kahane Slaying Kept List of Prominent Jews, N.Y. Times, Dec. 1, 1990, at 29, col. 5; Israel Holds Couple Sought by U.S. Since 1989 in Letter-Bomb Killing, N.Y. Times, March 26, 1991, at A13, col. 2.

[39] Amend, 3 to S. 320, 102d Cong., 1st Sess., 137 Cong. Rec. S1921–23 (daily ed. Feb. 19, 1991) (modifications to S. 245 are italicized). Other modifications to S. 245 deleted provisions that excluded the death penalty for the mentally retarded and the mentally disabled.

[40] 18 U.S.C. §2332(d) (as recodified from 18 U.S.C. §2331(e) by Pub. L. No., 101–519, 104 Stat. 2240, 2250, §132(b)(1) (1990)).

[41] See infra notes 56–61 and accompanying text.

[42] 137 Cong. Rec. S1948 (daily ed. Feb. 20, 1991).

[43] Id.

[44] R. Friedlander, The U.S. Legislative Approach, in Bassiouni, Terrorism, supra note 5, at 11.

[45] Last year, the President signed into law the Anti-terrorism Act of 1990, see supra note 14. That Act uses the definition of international terrorism found in the FISA. See Pub. L. No. 101–519, 104 Stat. 2240, 2250 §132(b)(2) (1990) (creating newly-codified section 2331(1) defining "international terrorism").

[46] 50 U.S.C. §1801(c) (1988).

[47] Id.

[48] Friedlander, supra note 44, at 18.

[49] 132 Cong. Rec. 2359 (Feb. 19, 1986) (remarks of Sen. Hatch, R–Utah).

[50] 18 U.S.C. §2332(d) (as recodified from 18 U.S.C. 2331(e) by Pub. L. No. 101–519, 104 Stat. 2240, 2250, §132(b)(1) (1990)).

[51] See United States v. Curtiss Wright Export Corp., 299 U.S. 304, 318–19 (1936); U.S. Const. art. II §2.

[52] Friedlander, supra note 44, at 11–12.

[53] Id.

[54] Id.

[55] Id. at 12–13.

[56] 137 Cong. Rec. S1947 (daily ed. Feb. 20, 1991) (remarks of Sen. Metzenbaum, D-Ohio).

[57] S. 266, 102d Cong., 1st Sess., §1201; 137 Cong. Rec. S1190–96 (daily ed. Jan. 24, 1991) (employing definition of agent of a foreign power from FISA for criminal provisions on domestic terrorism). The definition of "agent of a foreign power" in FISA is codified at 50 U.S.C. §1801(b) (1988), and states that an agent of a foreign power is:

"(1) any person other than a United States person, who—

"(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4) of this section;

"(B) acts for or on behalf of a foreign power which engaged in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

"(2) any person who—

"(A) knowingly engaged in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statute of the United States;

"(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

"(C) knowingly engages in sabotage, or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

"(D) knowingly aids or abets any person in the conduct or activities described in subparagraphs (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraphs (A), (B), or (C)."

[58] Although 50 U.S.C. §1801(b)(2)(C) (1988) refers to persons engaging in "international terrorism," any possibility that this language is not strictly limited to individuals committing acts of terrorism on behalf of a foreign power or foreign-based terrorist group is clearly foreclosed by the language restricting it to acts "for or on behalf of a foreign power." It is also foreclosed by the fact that the definition of "international terrorism" in section 1801(c)(3) limits it to activities "occurring totally outside the United States, or transcending national boundaries in terms of the means by which they are accomplished, the person they appear intended to coerce or intimidate, or the locale in which the perpetrators operate or seek asylum." See also S. Rep. No. 604, 95th Cong., 2d Sess. 26–27, reprinted in 1978 U.S. Code Cong. & Admin. News 3973, 3995–96 ("The rare case might arise where a U.S. person is acting for or on behalf of a foreign-based terrorist group that is substantially composed of U.S. persons. In such a case, the judge must examine the circumstances carefully in order to determine whether the organization[] is a foreign-based terrorist group and not a domestic group with some foreign aspects to it."); H.R. Conf. Rep. No. 1720, 95th Cong., 2d Sess. 19–20, reprinted in 1978 U.S. Code Cong. & Admin. News 3904, 4049.

[59] Terms Levied in Bombings of Government Buildings; 'Freedom Fighters' Given Additional Ten Years, Wash. Post, Nov. 17, 1990, at B4, col. 1; Capitol Security Is Tightened After Bombing, N.Y. Times, Nov. 9, 1983, at A2, col. 4.

60. Chicago Tribune, Aug. 8, 1985, Temp Sec. at 1, Zone C; Guerrillas, Reuters Newswire Service, April 11, 1980 (NEXIS, Archives files).

61. 137 Cong. Rec. S1948 (daily ed. Feb. 20, 1991).

62. 56 Cal. 2d 720, 363 P.2d 33, 16 Cal. Rptr. 777, 784 (1961).

63. 16 Cal. Rptr. at 785.

64. Id.

65. Id.

66. 135 Cong Rec. S14212–13 (daily ed. Oct. 26, 1989) (remarks of Sen. Hatfield, R–Oregon).

67. See supra notes 3–6 and accompanying text (describing terrorist acts for which perpetrators were not held accountable under law).

68. Israelis Report Sheik Told Them Marine Was Still Alive Last Week, N.Y. Times, Aug. 3, 1989, at A2, col. 2.

69. Bassiouni, A Policy-Oriented Inquiry of "International Terrorism", in Bassiouni, Terrorism, supra Note 5, at xiv.

70. Korn, supra note 3, at 28.

71. The release of the Shiite terrorists after the Iraqi invasion of Kuwait, however, has not yet led to the release of American hostages in Lebanon. Islamic Jihad Repeats Offer to Trade U.S. Hostages for 17 Jailed Muslims, L.A. Times, Oct. 25, 1989, at A8, col. 5.

72. 428 U.S. 153 (1976).

73. Id. at 184.

74. Id. at 183.

75. 135 Cong Rec. S14213–14 (daily ed. Oct. 26, 1989) (remarks of Sen. Kennedy, D. Massachusetts, and table of 20 countries with extradition treaties giving those countries the right to refuse to extradite criminals unless the United States agrees to forego invoking the death penalty).

76. See generally George, Federal Anti-Terrorist Legislation, in Bassiouni Terrorism, supra note 5, at 25 (detailing various criminal statutes affording federal law enforcement officials extraterritorial jurisdiction over terrorist actions).

77. Friend Led Terror Suspect to FBI, Lawyer Says, N.Y. Times, Sept. 19, 1987, at 3, col. 3.

78. United States v. Yunis, 924 F.2d 1086 (D.C. Cir. 1991).

79. 924 F.2d at 1091. See generally Blakesley, Jurisdictional Issues and Conflicts of Jurisdiction, in Bassiouni, Terrorism, supra note 5, at 131.

80. Id.

81. Although Colombia's Supreme Court had earlier halted all extraditions to the United States on a technicality, Colombia's President resumed extraditing drug traffickers to the United States after drug traffickers assassinated a Presidential candidate, Luis Carlos Galan, in August 1989. Colombian Candidate Murdered; President Sets Moves Against Drug Lords, Reinstates Extradition, Wash. Post, Aug. 20, 1989, at A1, col. 6.

82. See generally M.C. Bassiouni, a Draft International Criminal Code and Draft Statute for an International Criminal Tribunal (1987); Bassiouni, Effective National and International Action Against Organized Crime and Terrorist Criminal activities, 4

Emory Int'l L. Rev. 9 (1990); Bassiouni, Critical Reflections of International and National Control of Drugs, 18 Den. J. Int'l L. Pol. 311 (1990).

83. Amend. 3068 to H.R. 5114, 101st Cong., 2d Sess., 135 Cong. Rec. S16216–17 (daily ed. Oct. 19, 1990); Pub. L. No. 101–513, 104 Stat. 1979, 2066–67, § 599E (1990). The President recently released his report. (Copy on file at the Dickinson Law Review office).

84. See id.

85. The Judicial Conference is currently studying the issue and has not yet released a report on the international criminal court concept. Most recently, on March 14, 1991, the Senate unanimously passed S. Res. 76, a resolution I introduced, to encourage the President to confer with the sovereign state of Kuwait, countries of the Coalition allied against Iraq, or the United nations to establish an International Criminal Court or Military Tribunal to try Iraq's President Saddam Hussein and other Iraqis responsible for war crimes, crimes against peace, and crimes against humanity as defined under international law.

86. Murder Suspect's Bid to Stay in Canada Tests Pact, N.Y. Times, Feb. 13, 1991 at A18, col. 1.

87. Id. See also Canada Sends U.S. a Murder Suspect, N.Y. Times, Sept. 27, 1991, at A15, col. 1.

88. Id.

89. Soering Case, 161 Eur. Ct. H.R. (Ser. A) (1989); see generally Naldi, "Death Row Phenomenon" Held Inhuman Treatment, 43 Rev of the Int'l Comm. of Jurists 60 (1980).

90. Naldi, supra note 89, at 62.

91. Libyan-Sponsored Terrorism: A Dilemma for Policymakers. Hearing before the Subcomm. on Security and Terrorism of the Comm. on the Judiciary, U.S. Senate, 99th Cong., 2d Sess. 9 (Feb. 19, 1986) (statement of Sen. Specter).

Mr. HATFIELD. Mr. President, as I indicated earlier to the managers of the bill and to Senator STEVENS of Alaska, who was representing the viewpoint of the Senator from New York on this position, I at this time as a member of the Appropriations Committee would raise a point of order that this constitutes legislation on an appropriations bill.

Mr. D'AMATO. I wonder if my distinguished colleague would withhold that for 5 minutes in any event to give me an opportunity? I see the majority leader is on the floor.

The PRESIDING OFFICER. Will the Senator from Oregon withhold?

Mr. HATFIELD. I withhold without losing my right to the floor.

The PRESIDING OFFICER. Without prejudice to his right.

Mr. MITCHELL. Mr. President, I wonder the Senator will yield to permit me to suggest that we reach an agreement that would permit the time between now and 1:30 to be used for debate on this matter equally divided between the Senator from Oregon and the Senator from New York, controlling the two sides, if that is agreeable with the managers?

Mr. HOLLINGS. We have Senator LEVIN on our side.

It should be the Senator from New York and the Senator from Michigan.

Mr. MITCHELL. Then, Mr. President, I wonder if it would be agreeable to the Senator from Oregon, if we could work out an agreement whereby the point of order could be made now and the motion to waive and then we get an agreement that there then would be between that time and 1:30 time for debate equally divided and controlled in the manner which I suggested. That I think would accommodate everybody's concerns here.

Mr. HATFIELD. Mr. President, I would certainly defer to the majority leader's request and the agreement with the managers of the bill. I would suggest only that the time be controlled by the Senator from Michigan, Mr. LEVIN, rather than myself in opposition to this, and the Senator from New York.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a word. I thank my distinguished colleague from Oregon for his very kind comments about my work and thank him very much for including the law review article in the RECORD. Since it is my article, I would have had reservations as to cost, so I thank Senator HATFIELD for his taking the initiative in including the article.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I therefore, at this point raise a point of order against the amendment of the Senator from New York in that it constitutes legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I concede that the amendment is legislative in nature, but I raise the question of germaneness of the amendment to the language already in the bill contained on pages 4, 14, and 22, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair under Senate rule XVI now submits to the Senate the question raised by the Senator from Oregon, namely, is the amendment germane or relevant to the legislative language in the House-passed bill. The question is not debatable.

The majority leader.

TIME-LIMITATION AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the time between now and 1:30 p.m. be equally divided on the issue of the defense of germaneness and that a vote on that issue occur at 1:30 p.m. and that the time be controlled by Senators LEVIN and D'AMATO.

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

Mr. MITCHELL. Mr. President, then for information of all Senators, a vote will occur at 1:30 p.m. on the pending matter and the time between now and then will be used for debate on that matter.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to, first of all, thank my distinguished colleague from Alaska, Senator STEVENS, for——

Mr. MITCHELL. Mr. President, I regret to interrupt. Will the Senator yield to permit me to propound another unanimous consent agreement relative to this bill certainly?

Mr. D'AMATO. Yes.

Mr. MITCHELL. Mr. President, I thank the colleague for his courtesy.

Mr. President, the managers and their staffs have worked out an agreement with respect to the disposition of the remainder of the bill and I will at this time propound that agreement. It moves us a modest step forward in attempting to dispose of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the following limitation on amendments apply to the Commerce, State, Justice appropriations bill, H.R. 2519, that they be the only first-degree floor amendments in order to be considered under the following time limitations, if applicable; that second-degree amendments be in order to floor amendments only if they are relevant to the first-degree amendment and considered under the same time limitation as the first degree; that there be 2 hours for debate on the bill, with no time limitation on the excepted committee amendments.

The amendments are follows:

An amendment by Senator DORGAN regarding the National Endowment for Democracy; an amendment by Senator BYRD that is relevant; an amendment by Senator HATFIELD that is relevant; an amendment by Senator PRYOR regarding defense conversion, with 30 minutes for debate; an amendment by Senator DECONCINI regarding Russian troops in the Baltics, 1 hour of debate; an amendment by Senator RIEGLE regarding trade adjustment assistance; an amendment by Senator BRYAN that is relevant; an amendment by Senator BRYAN that is relevant; an amendment by Senator BRYAN that is relevant; an amendment by Senator METZENBAUM that is relevant; an amendment by Senator METZENBAUM that is relevant; an amendment by Senator BAUCUS regarding elimination of money for International Border Commissioner; an amendment by Senator KERRY of Massachusetts that is relevant; an amendment by Senator LEVIN regarding Bosnia; an amendment by Senator LEVIN regarding Great Lakes Fishery Commission; an amendment by Senator SIMON regarding Department of Corrections nuisance grant, 30 minutes for debate; an amendment by Senator GLENN regarding the Justice Department inspector general, 1 hour for debate; an amendment by Senator REID regarding minimum wage for prisoners; an amendment by Senator MIKULSKI that is relevant; an amendment by Senator MIKULSKI that is relevant; an

amendment by Senator MIKULSKI that is relevant; an amendment by Senator FEINSTEIN regarding the SBA 7(A) loan program; an amendment by Senator HOLLINGS that is relevant; an amendment by Senator HOLLINGS regarding managers' technical amendments; an amendment by Senator FEINGOLD regarding Board of International Broadcasting; an amendment by Senator BIDEN regarding Board of International Broadcasting; an amendment by Senator BIDEN regarding USIA; an amendment by Senator FEINGOLD regarding Board of International Broadcasting; an amendment by Senator HOLLINGS that is relevant; an amendment by Senator HATCH regarding funding law enforcement, with 2 hours for debate; an amendment by Senator HATCH regarding safehouse networks, with 30 minutes for debate; an amendment by Senator BROWN regarding the National Endowment for Democracy; an amendment by Senator BROWN regarding the National Endowment for Democracy; an amendment by Senator BROWN regarding the National Endowment for Democracy; an amendment by Senator BROWN regarding coffee; an amendment by Senator BROWN regarding coffee; an amendment by Senator GREGG that is relevant; an amendment by Senator HELMS that is relevant; an amendment by Senator HELMS regarding Nicaraguan aid; an amendment by Senator LOTT regarding the EDA grant program; an amendment by Senator PRESSLER regarding credit card calls, with 30 minutes for debate; an amendment by Senator PRESSLER regarding State Department reorganization, with 30 minutes for debate; an amendment by Senator PRESSLER regarding U.N. reform, with 30 minutes for debate; an amendment by Senator DANFORTH regarding judicial reform; an amendment by Senator DOMENICI that is relevant; an amendment by Senator DOMENICI that is relevant; an amendment by Senator SIMPSON regarding ASAT forfeiture fund; an amendment by Senator DOLE regarding Justice grant; an amendment by Senator DOLE regarding Nicaraguan aid; an amendment by Senator GRAMM of Texas that is relevant; an amendment by Senator COHEN that is relevant; an amendment by Senator COHEN that is relevant; and an amendment by Senator CHAFEE that is relevant; and I further ask unanimous consent that all time limits be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their effort and their cooperation.

I thank the Senator from New York for his courtesy.

The PRESIDING OFFICER. The Senator from New York.

Mr. BAUCUS. Mr. President, I wonder if the Senator from New York would kindly yield to me.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. D'AMATO. I yield to the Senator.

Mr. BAUCUS. I thank the Senator very much.

AMENDMENT NO. 698, AS MODIFIED

Mr. D'AMATO. Mr. President, first of all, I want to commend my distinguished colleague from Alaska, Senator STEVENS, for dealing with an obvious deficiency in the present laws that relate to mail bombings. There has been an increased rash of mail bombing attacks.

Let me tell you, we have every right to see to it that people who would use the mail for terrorist attacks, cowardly attacks, upon innocent people, they should face the death penalty. Senator STEVENS' modification does exactly that.

The legislation which we have introduced today closes legal loopholes that exist in the enforcement of the death penalty. We have no death penalty section, as it relates to terrorist bombings or mail attacks. The courts have found them to be unconstitutional. What we are doing is correcting those constitutional deficiencies and those defects.

Now, let me address the question of whether or not the death penalty for terrorist bombers and terrorist attacks is a deterrent. It certainly is a deterrent to the fellow who is convicted and is sentenced to death. He is not going to be doing that again.

That may seem overly simplistic, but I think the argument that it may or may not be a deterrent is one that is overly simplistic and does not go to the heart of the matter.

We have an absolute obligation to let people know that we will deal with them in the strongest way possible for these kinds of activities, where they have no regard for human life.

Indeed, in the legislative report establishing constitutional procedures of imprisonment for capital punishment from the Senate Judiciary Committee back in 1983, the question of a society's outrage and sense of frustration towards those who undermine the foundations of civilization were discussed.

Retribution—now we are not supposed to say retribution, but let me tell you something: If you were the family that had someone who was killed in the World Trade Center bombing, I want to ask the question: Should there not be retribution? Should there not be punishment meted out in accordance with the cowardly act, with the absolute disdain for life?

I believe the answer is yes. I believe that some crimes are so vicious, so heinous that society has an absolute right to say that this kind of conduct will not be tolerated and that you risk your life if you are going to take another's life with reckless disregard or indifference towards innocent people.

The World Trade Center bombing is not the only incident.

Mr. President, let me show you some statistics. These are real statistics that come from the 1991 FBI Bombing Summary that comes out every year. The last year of report—this is U.S. Department of Justice, Federal Bureau of Investigation—goes up to 1991. These are the total bombing incidents that have taken place in our country.

Take a look at the dramatic rise in these bombings. Starting in 1987, there were 850. In 1988, we go to 977. And then look at the way we begin to jump. We go from 977 to 1,208. And in 2 years, we go from 1,208 bombings nationwide to 2,499. In 2 years, the number of bombings have doubled.

Let me suggest to you that when you have people being killed, innocent people, when you have people whose lives are being threatened, when you have people who are being maimed and injured, you better step up to the plate and say to the American people: "Enough is enough. We will stand up and defend you, and those who undertake these acts will pay with their lives."

Some might suggest I might take this a little personally since I have been the subject of some of these threats. Let me tell my colleagues about some of the characters who have been in the forefront.

Here is a fellow who has been involved. This is Mr. Elgabrowny. He was involved in the planning of attacks throughout New York City. He is now in jail. He was arrested. He was also charged for obstruction of justice in the World Trade Center bombing. I do not have to tell you, Mr. Elgabrowny and all of his crew are not going to keep this Senator quiet. The American people want the death penalty as it relates to these kinds of acts. Terrorism, whether it comes in the mail or whether it comes in tunnels or bridges, or whether people are being threatened with assassination because of their political views—we have a right to say we are going to take these people on, and we are not going to let these assassins hire people who can undertake these missions with indifference because they will wind up in a Federal penitentiary, which is not such a bad place. After all, they are carrying out, in their own sick minds, some work they think is important. I have to tell you, I think it is important we send them a message.

Here is another fellow, not exactly an admirer of mine. This picture goes back, by the way, to the end of 1991, December 1991. It was taken outside where the trial for Rabbi Meir Kahane's murder was taking place. Sayjid Nossair was the accused killer. He was not convicted of killing the rabbi. I think the Justice Department should have investigated that killing. I said so then. I say it again. All these characters were there supporting Nossair. He is now in prison serving 7½ to 21 years.

This fellow is named Abuhalima. Mahmud Abuhalima is the fellow now charged with being the mastermind in the bombing of the World Trade Center. As you can note, we have never had a very good relationship. I did not think it would get to the point where they would be involved, and some of his cronies, in targeting me for assassination. Nor did I think they would be so wild or wacky they would then begin to target various facilities in New York for bombing—tunnels—so they could kill thousands of people and create fear.

I do take it personally. Maybe it is because of that I can say this business of saying we are going to drop this in conference is a lot of nonsense. This is one Senator who is going to make sure we vote. We are going to vote in conference. We are not going to be able to say to our constituents, on the one hand: Yes, I am for the death penalty, I am going to fight for it as it relates to terrorists; and then see it simply deleted in conference.

I am going to work to have this included because we will come back in disagreement, as far as this Senator is concerned, we must make the Representatives vote. The House of Representatives have been skipping out on us, using procedural methods to kill it. The Senate has, for a period of years, supported death penalty legislation for drug kingpins who order the assassination of people, knowing they would do that and continue to do that with abandon. I think you are going to have people who will think twice about this. They are not going to become involved when they see the death penalty being handed down.

Certainly of the new outrages that continue to increase these acts of terrorism, the use of explosives has been the most convenient. We have seen a doubling of the bombings in America—a doubling. It is about time we had the courage to vote in legislation that can, I believe, make a difference and show to each of those who would carry out these activities, if they are going to kill people they better be prepared to pay with their own lives.

I think it is common sense, absolute common sense. That is what we are asking for. I do not think we have to demonstrate there is a greater deterrence because the death penalty is or is not implemented. I do not suggest for 1 minute the argument should fall on that. I believe, again, certain crimes are so outrageous that the people who undertake them—bombing people, innocent people in a building, and it results in their death—those who would undertake this act better be prepared to pay with their own lives. It is simply common sense, and I hope we have the courage to fight for this legislation. I could not think of a more appropriate vehicle than the Commerce, Justice, State Act.

Why? With the funding of the Justice Department, this legislation should be in there. If we are going to be fighting a war against crime, let us help those who are involved. It certainly should be part of the Justice Code. While it may not be, strictly speaking, within the words, it is certainly the spirit of the Appropriations Act. We do have legislative initiatives that are in this bill.

On page 4, we say the funds may be made available in a year to help programs to assist States in litigation, processing of death penalties. So we are talking about the death penalty here in this bill, making funds available. It does it again on page 14 and again on page 24. So there is certainly ample procedure right here in this bill to say we should move forward on it.

Second, funding of the State Department is included here. Some of these terrorist acts are committed by radicals and fringe groups, and some of these people who are disturbed. So we make a distinction. Obviously, those people who fall within the definition of those who could face the death penalty will be given all the constitutional protections necessary.

The fact of the matter is, I suspect in the fullness of time we are going to prove with absolute clarity there were foreign agents involved in these terrorist attacks, in the bombing of the World Trade Center. I do not know how long it will take before that picture emerges, but I am rather confident that dollars that came from the Iranians were involved. I know as a fact the Iranians have been financing terrorist attacks against Americans and American targets for years. They do it through different groups.

We are fighting terrorism. We are providing money in this bill to fight it internationally. What better way and what better a bill, in which to put legislation on the death penalty? Whether it is the Justice side or taking it on from the international side, I suggest this is probably the most appropriate bill and vehicle we can use.

Commerce—this is the Commerce Department. Senator STEVENS has made a very important addition because commerce is threatened when the mails are utilized for bombings. So once again, I think if we look at the appropriateness of this bill, you could not find a vehicle that is a better one in which to have this debate and to pass this legislation.

For these reasons, Mr. President, I hope we are able to sustain my point of view as it relates to germaneness. This amendment is germane. We should vote that way. You cannot have it both ways. You cannot say you are going to take on terrorists if you are not willing to mete out the appropriate punishment for those who would inflict the kinds of tragedies we have seen, not only at the World Trade Center, but as the summary indicated—once again, I am just going to point to it and make this point, if this is not frightening in just these past 2 years, from 1,200 bombings in 1989, that we see such a steep increase to 2,499, a doubling in 2 years.

I say wake up, my colleagues in the Congress. Wake up and understand there are people who are increasingly using bombings and terrorist attacks as a methodology to hold us hostage. We should never, never submit to them. We should stand up and fight that terrorism, whether it is here, whether it is sponsored from foreign states, or whether it is sponsored from militant groups within. The death penalty is one of those tools. Those who would seek to destroy life should understand they may forfeit their own.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

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

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, about an hour ago, when I started to speak on this subject, I was referring to a case in Virginia of David Vasquez. What is interesting about the Vasquez case is that it answers the point of those who say, what if you are sure there is no mistake? We have a system of justice that is imperfect because it is based on human beings and we are fallible. We make mistakes.

As a matter of fact, history is full of mistakes when it comes to a justice system. History has dozens, if not hundreds of confirmed cases where innocent people have been put to death because our system of justice is not perfect. Most of us are familiar with specific cases where innocent people on death row have been saved at the last minute, and are familiar with those cases where they have not been saved at the last minute.

But then some people say, what about a case where someone pleads guilty? What could be clearer than if someone actually pleads guilty to murder? The answer to that is that we also have confirmed cases where people have pled guilty who were totally and completely innocent of the murder to which they pled guilty.

David Vasquez, January 1989—this is not back in the midst of history, this is modern times, 1989:

> Virginia Governor Gerald Baliles granted a complete pardon yesterday to David Vasquez, who pleaded guilty to murder and has been in prison for 5 years, after new evidence linked the killing to an Arlington man convicted of two other murders. Vasquez was imprisoned in 1984, accused of killing Washington lawyer Carolyn Hamm, who detectives believe was raped and hanged from a pipe in her basement the month before. The week before the trial began in 1985, Vasquez pleaded guilty to second-degree murder to avoid being tried for capital murder, which carries the death penalty.

We had a man pleading guilty to a murder he did not commit because of the fear that if he went to trial, he would be convicted and put to death.

The transcript of this trial is a fascinating transcript. It is a transcript where we have the police officers involved talking about dreams that Mr. Vasquez was alleged to have discussed with them. It was those dreams which these police officers said were such clear evidence of the fact that Mr. Vasquez was there. Police Officer W.C. Shelton testified that he was assigned to the Robbery/Homicide Division of the Arlington County Police Department:

We talked to several young women, young ladies who had seen Mr. Vasquez in front of the victim's house at approximately 8 p.m. on the night of the 23rd.

They talked to Vasquez several times shortly thereafter, and they finally, they claim, were told by Vasquez about a dream that he had, where he had described a horrible dream, and "based on the information that he gave us about those dreams, it lined up exactly with the murder based on information that we had."

Then they go on to describe what he said. Shelton says:

One of the things that he talked about was the victim's hands, and he described how he put her down, and in his dreams he put her down. In fact, her body was found in that position. He indicated at one point, prior to her hands being tied, that she was assaulted in the middle of the living room. That was confirmed by the position of the robe in the middle of the living room. The position of the robe was discussed in his dream.

And, oh, yes, this police officer says that is exactly the position of the robe on the woman who was killed.

There were many things that the police officer said that were discussed that "were not known to anyone but us." Here we have in a murder case a police officer testifying that the man who is pleading guilty to this crime—that he was not guilty of—discussed with them facts which were known only to the police officers. For instance, the police officer said he made reference to jewelry and where it was left "and that information was known only to us."

He also indicated in his dream that there were also two or three Venetian blind cords cut. That information was known only to us.

What else did he tell you with respect to the robe?

He also told us that in his dreams that he took the cord and wrapped the victim's hands 10 times, and that was exactly how many times her hands had been wrapped.

So listening to this evidence, the judge finds Vasquez guilty of murder.

Vasquez was innocent of murder. He was innocent of any crime. He walked out of a Virginia prison years and years after serving time a free man, a mistaken case, a tragic case, and it is not untypical. Case after case after case, year after year after year people who are on death row awaiting the final execution are proven to be innocent of the crime of which they were convicted. And it is only because they were not yet put to death that the possibility was even there that they could be proven innocent.

March 1992, Los Angeles Times: "Judge Apologizes, Frees Two Men in 1973 Murder."

Clarence Chance and Benny Powell walked into Los Angeles County Superior Court as handcuffed prisoners Wednesday and left as free men—released by a judge after spending 17 years behind bars for a murder that the district attorney is no longer convinced that they committed.

* * * Three people who testified against Chance and Powell say they were pressured into doing so by the police. When county prosecutors launched their own investigation, they discovered that the police department had withheld the fact that a jailhouse informant who testified against the pair had implicated two other people and that he had flunked two polygraph tests.

* * * To Chance and Powell, she offered her apologies for the "gross injustices" that occurred.

"Nothing can be done to return to you the years irretrievably lost," the judge said.

* * * The release of Chance and Powell would not have occurred without independent investigator Jim McCloskey, a 49-year-old Protestant lay minister from Princeton, New Jersey, who has dedicated his life to working on behalf of those he calls "the convicted innocent"—people who, through corruption or bungling by attorneys or investigators, have been wrongly convicted.

And I might add, the release of Chance and Powell would not have occurred without one other thing having occurred, and that is that they were still alive, that the death penalty had not yet been imposed.

Another article, January 1982, Poverty Law Report:

Imprisoned in Louisiana at 15 and sentenced to death at 16 for a rape he didn't commit, Johnny Ross has finally won freedom.

March 8, 1982: "After 69 Years of Silence, Lynching Victim Is Cleared." This is the New York Times.

New but long-held secret information was disclosed today in one of the most disputed trials in American history, the murder conviction and subsequent mob lynching of Leo Frank almost 70 years ago.

Mr. Frank, a 29-year-old Jewish factory superintendent, was convicted in Atlanta of killing one of his employees, Mary Phagan, 14, and dumping her in the basement of the pencil factory where they worked.

But in a sworn statement to the newspaper The Tennesseean, an 83-year-old Virginian, who 7 decades ago was a frightened and reluctant teenage witness in that trial, now says that he saw the real killer bear-hugging the long-haired girl at her waist and carrying her limp, unconscious body through a partly opened trap door leading to the basement on the day she was murdered.

"Leo Frank did not kill Mary Phagan," Alonzo Mann said in confirmation of a widely believed theory of historians.

March 16, 1984, New York Times: "Faulty Conviction for Murder: Cracks in the Justice System."

When Nathaniel Carter was arrested for murder on September 19, 1981, the Queens District Attorney's office quickly went to work. The prosecutors said they had to move fast. If they did not get an indictment in 4 days, Mr. Carter would be freed.

He had been charged with the stabbing death of Clarice Herndon. His chief accuser was his estranged wife—and Mrs. Herndon's foster daughter—Delisa Carter, who told the police she had watched helplessly as her husband had attacked Mrs. Herndon with a knife. The assault was as savage as it was quick. The victim had 23 stab wounds.

Not until last January, after Mr. Carter had served more than 2 years in prison for the slaying, did Mrs. Carter confess that Mr. Carter was innocent and that she was the killer.

October 22, 1982, Washington Post: "Victoria Price Street Dies; of Scottsboro Boys Case."

Victoria Price Street, 77, whose claims that she had been raped by nine black youths on an Alabama train in 1931 led to the internationally infamous Scottsboro boys case, died Sunday at a hospital in Huntsville, Alabama.

* * * The notorious case began on March 25, 1931, when a train rumbled to a stop at Paint Rock, Alabama.

Two women, Victoria Price and Ruby Bates, climbed off a boxcar and told authorities they had been raped. The nine blacks were taken to nearby Scottsboro. With emotions running high in the white community, eight were sentenced to die.

Miss Bates later recanted her testimony, saying no rape had occurred, and the death sentences were eventually set aside after appeals brought orders for new trials. The youths, however, served prison terms of varying lengths with some of the time spent on death row.

Mr. President, how much time do I have remaining under my control?

The PRESIDING OFFICER. Sixteen minutes.

Mr. LEVIN. Mr. President, I wish to save that amount of time for Senator SIMON, who I believe is on his way to the floor, so I will yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Mr. President, I am only going to say a few things, and then I am going to sit down and wait for my colleague, Senator SIMON, to come to the floor.

Again, the fact is that our system of justice has been so arranged that people who have been convicted, who are awaiting sentencing or the appeal process, have had an opportunity for and indeed have had many of these convictions reversed.

We are talking here about those who are found guilty, who are convicted, and where the jury does not mandatorily impose a death penalty but has the option, where there is no doubt of the outrageous conduct, where there are no mitigating circumstances in the execution, killing of innocent women, children, the blowing up of

buildings that bring this about, the letter bombings.

But obviously, if there are extenuating circumstances as it relates to a person's participation, these are the kinds of things that will be put before the Court. We do not, in this legislation, limit judicial review of these convictions; we do not cut off arbitrarily the rights of people to have a fair trial, a trial that will have all of the judicial protections accorded under the Constitution. I think that is important. Nor do we mandate a death penalty; that would be unconstitutional. We say that is one of the options a jury should have. Again, I think that some of the conduct is so repugnant that only the death penalty is appropriate.

I yield the floor.

Mr. LEVIN addressed the Chair.

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

Mr. LEVIN. I yield to Senator SIMON the remainder of the time on our side.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President and my colleagues of the Senate, we are all in agreement that terrorism is a terrible thing, and we have to do whatever we can to resist terrorism. But there is a fundamental question here and that is, does capital punishment deter terrorism? There simply is no evidence that it does. Even in a country that is threatened by terrorism almost constantly, Israel, when it captures a terrorist, the terrorist is tried, put in prison, and is not executed.

Almost all the civilized world has given up capital punishment. Canada does not have capital punishment. Mexico does not have capital punishment. The countries of Western Europe do not have capital punishment. Who has capital punishment anymore among the major industrial nations? China, Russia, and the United States. That is it.

Since we have reinstituted capital punishment in the United States after a lapse of time, what has happened to our crime rates? Have they gone down?

They have not gone down. They have gone up. Do States that do not have capital punishment in our country have a higher rate of crime than the States which do have capital punishment? Absolutely not.

But the one thing that bothers me is that capital punishment is what we reserve for people of limited means. If you have enough money to hire the best attorneys, you will never get capital punishment. That is clear. The study done by the Stanford Law Review—and I regret I just heard about this amendment and came over, and I did not have a chance to dig it up—shows very clearly, with the inadequacy of counsel, a host of people who have been executed in our country.

If you do not have the money, you may get capital punishment. That is the record. It is not a record of which we can be proud. We have executed a great many innocent people.

Two people who came near death by execution testified before the subcommittee hearing chaired by Senator METZENBAUM and told their story. Oh, we could have been tough and executed them and then learned later about their innocence. But how close they came. That is one punishment for which there is no remedial action that society can take. If we take someone from Wisconsin or someone from Minnesota and put them in prison wrongfully for 3 years, there can be some compensation. It does not solve the problem, but it is not as final as execution.

I am sure the motivation on the part of people who want capital punishment is to let us get after these people. Let us get after the criminals. I am for getting after the criminals. But there is no evidence whatsoever that capital punishment helps us in this problem of crime.

Mr. President, I note the presence of my colleague from Minnesota, and I know he would like to speak on this issue.

How much time does the Senator desire?

Mr. WELLSTONE. I think less than 5 minutes would be sufficient.

Mr. SIMON. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

I, much like the Senator from Illinois, really come here not with a prepared statement. I will talk from the heart about this.

First of all, let me say to my colleagues that I fully understand what I think is the motivation behind this amendment.

When I talk to people in Minnesota, people who favor capital punishment, I can absolutely understand their anger about truly egregious crimes that are committed. In this particular case we are talking about terrorist crimes. There is not anybody on the floor of the Senate that would not want to argue that those crimes are heinous and would not want to talk about those that commit those crimes being in prison for the rest of their lives, that being a certainty. I think many of us, at least myself, feel very strongly about that.

Nor is there any debate about those family members who lose their loved ones as a result of such an act by a terrorist, or for that matter it could be another violent crime.

There is no question about how any of us would feel toward those family members. Every time I read about such a crime, be it a terrorist or be it just a horrible murder, I think about my own children, and I can understand the anger of the people who right away talk about capital punishment. But I have to simply reinforce the remarks of the Senator from Illinois and what the Senator from Michigan [Mr LEVIN] has been doing on this floor with a considerable amount of, I might add, courage and eloquence.

First, I do not see any evidence in terms of the deterrence of effectiveness whatsoever.

Second, when the Senator from Illinois was talking about this kind of cruel discrepancy about those on the top of the socioeconomic structure who can hire the lawyers who never face capital punishment, it reminds me of the adage that capital punishment is for those without the capital. Unfortunately, that is really true. Just look who is on death row, look at the ones who pay the price.

Third of all, I just simply would want to point out that there, as the Senator from Illinois and the Senator from Michigan have said on the floor of the Senate, we do not get to correct these mistakes. I do not have the document, examples the Senator from Michigan, who is a lawyer in his own right, was drawing from. But I was presiding earlier, Mr. President, when Senator LEVIN began to speak on this matter. It really should be chilling to all of us on the floor of the Senate to understand that there have been people on death row many of whose lives were taken only to find out later on they were innocent or could have been mistaken. That to me is truly the horrible part of it. That speaks directly to this amendment.

Finally, Mr. President, I simply have to say that I think life is sacred and life is precious. As heinous as the crime, I do not believe the States should be taking the life of someone. That is my absolute belief, heart and soul. Therefore, I think this amendment—there may be a challenge, a procedural challenge to this amendment. My challenge is I simply think it is wrong for us as a society, it is wrong for the State to take a life. I do not want to reduce it to the sort of simplistic idea of two wrongs do not make a right. That is really not what I am saying. I am saying the State has to live up to a higher standard than the very violent act of taking the life of a human being. Therefore, I oppose this amendment. I hope my colleagues will oppose it, though I have to tell you, Mr. President, this is one of those amendments, as the Senator from Illinois knows, which is not easy to debate. This is not an easy vote. I feel strongly about it. I wanted to support the Senator from Illinois and the Senator from Michigan.

I yield the rest of my time.

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

Mr. D'AMATO. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 9 minutes 15 seconds.

Mr. D'AMATO. Let me take 5 minutes, if I might, Mr. President.

Let me say first as it relates to the question of indigence, Senator LEVIN and I really went to great lengths to see to it that in any cases that might involve the death penalty and its application that the finest lawyers, that the finest resources, and all resources would be made available to people regardless of their ability to pay; that the cases would go to the court of appeals; that the defendant would have an opportunity to have not only counsel who is experienced in criminal defense matters and in the appeals but would have even additional counsel; that he would have assigned to and paid for by the Government, independent investigators; that there had to be a process where before the death penalty was carried out not only of the review process by the courts, and, indeed, it is this very process that has made available the fact of turning up evidence or information that may not have been available initially.

So we have gone to the greatest lengths to see to it that many of the inadequacies as it related to people who in the sixties and seventies, up until the seventies, did not have good legal counsel, were deprived of it, did not have the ability to have the best and the brightest, that that was no longer the case. That is No. 1.

I ask my friends to take a look at the Drug Abuse Prevention and Control Act in terms of the death penalty before it can be applied to the drug kingpins, and all of the safety procedures that heretofore have not existed exist today.

We are at war. I am not suggesting to you that everyone who is involved in any kind of activity, antisocial, that might result in—look at how nice we are saying antisocial—you know, killing people, that the death penalty be applied to everyone. There are standards that are set up.

But I am saying to you that there are some acts of violence that take place against civilization, and people that are so outrageous that we should have the right to apply the death penalty; that it is appropriate. The execution of innocent women and children, and indeed when a bomb is planted in a building and it results in their death for no reason other than the fact they happen to be there—people with that callous disregard— I just say the death penalty is appropriate.

I said before I say it again. Terrorists are laughing at us. In New York, we send New Jersey our jobs, and they send us their terrorists.

We just do not seem to get it. We need the death penalty.

The fact of the matter is that the Congress of the United States has voted in the death penalty and it is only because some of those safeguards that Senator LEVIN and I worked to bring about in the application of the death penalty for the drug kingpins were not provided for in those sections that were dealt with as it related to terrorist bombing or bombings.

Now what we are doing, and what this legislation seeks to do, is to see to it that there are these safeguards so that the constitutionality of an act that has heretofore been passed—we have had the death penalty for the bombing, but we cannot apply it. The Supreme Court said it is unconstitutional. You have not the proper safeguards. Now we have the safeguards. Why would anyone be opposed to that?

I respect those that are concerned that there could be a taking of an innocent life, no matter all the safeguards. But I would also suggest that I think many lives would be saved as a result of this legislation, and that the acts themselves in some cases are so horrendous, terrorist acts, whether they be letter bombs or bombs in buildings that kill innocent people. They have to know, people who are engaging in this, whether they be paid terrorists, whether they be operating on their own, whether they be people who use these devices to harm others. I am not suggesting every single one of the bombings we have seen take place in the last few years, and the huge increase, a doubling, 2,499 bombings in 1991, up over 100 percent; a 100-percent increase in 2 years. I am suggesting we had better wake up. We had better say to people who are engaging in this, you will pay with your life if you undertake this kind of activity and if you are convicted.

For these reasons I hope my colleagues would sustain this.

I think this is a reasonable legislative act. It is accompanied with the kinds of safeguards to do the best that we humanly can to avoid the kind of tragic errors that were so commonplace in the sixties and the seventies and in the years before where we did not have safeguards, where we did not have adequate representation of the poor or the indigent.

Let me also suggest to you that most of the people involved in these kinds of activities have plenty of lawyers, the best and the brightest to come, who have funds to pay for them, and in many cases the people of the United States wind up paying for these lawyers, as I have indicated, where they are indigent and do not have funds.

I yield the floor.

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

The PRESIDING OFFICER (Mr. WELLSTONE). There are 6 minutes 15 seconds remaining.

Mr. SIMON. Mr. President, there is no question that we ought to be doing everything we should to discourage terrorists. But there is just no evidence that capital punishment has any such deterrence. That terrorist who drove a truck loaded with ammunition into the Marine barracks in Lebanon destroyed himself along with all of the Marines. Is capital punishment going to be a deterrent to someone like that? The answer is clearly that it is not.

There are constructive things that we can do, and I would be pleased to work with my colleague from New York on this. The President just had a press conference yesterday where he announced some changes in the immigration law. Clearly, we ought to have some basic things like computers that let our people know who belongs to terrorist organizations, and they should not be admitted into the United States. That is a very practical thing to do. That will do some good.

With all due respect to my friend from New York who, I know, is properly motivated on this, I do not think his amendment is going to deter any terrorist action whatsoever.

The evidence is overwhelming that what deters criminals is the sureness and the swiftness of the penalty. Whenever you have capital punishment, it diminishes the sureness and the swiftness of the penalty. We had a case—I do not remember the man's name, but it was someone who was part of the underworld crime syndicate who apparently committed the crime of murder, and he was going to be tried in Illinois. It was a question of jurisdiction, whether he would be tried in Illinois or Michigan. Michigan does not have capital punishment. He wanted to be tried in Illinois where we do have capital punishment because he knew his chances of getting by are much greater in a State like Illinois, and where Michigan does not have it, the sureness and swiftness is a factor.

Finally—and then I will yield to my colleague from Wisconsin—there is the racial disparity and a disparity on various prejudices. Suppose somebody who is of Arab background, speaks English with a heavy accent, is up for trial. I do not think we should fool ourselves. That person has a tougher time getting justice in our system. The evidence is overwhelming that if you are an African-American or a Hispanic-American, you are more likely to get capital punishment than if you are a Caucasian-American. That is the reality. It is one of the things we ought to keep in mind.

I yield to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I was presiding as I listened to this debate, and I appreciate the courtesy of the Chair in letting me have a moment or two to step down and add my voice to the Senators who surround me in the Midwest.

I noticed, as I was listening, a Senator from Michigan, a Senator from Illinois, and a Senator from Minnesota all speaking against this amendment because each of them believe, as I do, that the death penalty is not a solution

to any of the problems, whether it be crime in America or the problem of terrorism.

We have not had the death penalty or an execution in Wisconsin for many, many years—well over 100 years. That is a source not of concern for many people in Wisconsin but for many people in Wisconsin a source of pride. We have a lower crime rate than many States. Maybe it is that the people in the Midwest are very practical people, that they would elect Senators who actually oppose the death penalty, knowing that in fact the crimes that we are talking about almost certainly would have occurred regardless of the death penalty, whether it be the horrible terrorism that has actually occurred and been threatened in the State of New York, or whether it be some of the senseless crimes that occur on a day-to-day basis throughout this country in domestic situations.

I do not think anyone can convince any of us in any meaningful way that those incidents would not have occurred if the death penalty were in place.

I join with my fellow Senators—and I hearken back to the decision in Furman versus Georgia, years ago, when the U.S. Supreme Court simply stated, at least some of the Justices stated that the death penalty is in fact cruel and unusual punishment under the eighth amendment. I believe in that, and I believe for that reason we must reject this amendment.

Mr. SIMON. Will my colleague yield for a question?

Mr. FEINGOLD. Yes.

Mr. SIMON. Our two States are next to each other, and we are very similar in many ways. He has one big city, Milwaukee, and the rest of the State tends to be more small town, rural. We have one big city, Chicago, and the rest of our State is suburban or small town, rural.

Is the crime rate in your State that does not have the capital punishment higher or lower than the crime rate in the State of Illinois? Does the Senator from Wisconsin know the answer to that?

Mr. FEINGOLD. I believe our crime rate is lower than Illinois'. In fact, I know of cases where individuals have committed a murder in Illinois and have gone and committed a murder in Wisconsin and, clearly, the question in their mind was not whether or not there was a death penalty. We are fortunate that we have a lower crime rate, for a variety of reasons. The answer is, of course, that Wisconsin has a lower crime rate.

Mr. SIMON. Do I have any time remaining?

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

The Senator from New York has 3 minutes 23 seconds remaining.

Mr. D'AMATO. Mr. President, I am interested in hearing how it is that we can come to a conclusion on whether or not the death penalty for terrorists should be applied because some States have a death penalty and some do not, and the crime rate may or may not be higher.

My State does not have a death penalty. It has been vetoed by the Governor 11 times. He does not get it. The people want it overwhelmingly, and the legislature passes it overwhelmingly. They have not been able to override the veto.

The fact is that we have more people who are in prison for killing people. Our prisons are bursting, and I have to tell you that we need the death penalty in New York. But on a nationwide basis—this goes beyond one State, and we have one of the highest rates as it relates to killings, and they continue.

In the city of New York, over 2,000 people were murdered—not all of those people or killers would not be subjected to the death penalty under legislative proposals that have been passed. But some would. I suggest if a person goes into a park and opens fire because somebody is there they do not like, and they kill two or three or four or five children or innocent people, and there is absolute certainty of who the killer is, they are arrested and apprehended, the death penalty in those cases is appropriate.

If there are convictions in the World Trade Center case, where five, six, seven, innocent people in that building died, I suggest to you that is the kind of case where the death penalty might be applicable to some of the defendants—maybe not all of them. But we do not have it. We do not even have the option. I suggest that in the law we have the option so that where we have these kinds of heinous crimes, we are not going to let the terrorists laugh and spend the rest of their lives in prison. They should forfeit with their life on some of these crimes.

So it is not just a sense of personal venom or antagonism toward those who would take the lives of others or threaten people, but it is a sense that we are going to stand up to these kinds of acts, that we are not going to sit back and allow the people to use the mail to blow up other people, and then he gets carted off to prison. That is not good enough, as far as I am concerned.

Most of the people want a death penalty—not that it will be applied in every single killing or murder, but at the appropriate times, where there is no justification, no reason, no impediments, and there was not a question of somebody who did not know right from wrong. The death penalty should be applied in some of these cases.

I suggest it is long overdue as it relates to terrorists and to bombers and people who would use our mailings accordingly.

For that reason, I hope my colleagues once again send a clear message that we are going to stand up in this fight against terrorism, and they will support this legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). The question before the Senate is, Is the amendment of the Senator from New York [Mr. D'AMATO] germane to any legislative language already in the House-passed bill?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—75

Baucus	Domenici	McCain
Bennett	Dorgan	McConnell
Biden	Exon	Mikulski
Bingaman	Faircloth	Moynihan
Bond	Feinstein	Murkowski
Boren	Ford	Nickles
Boxer	Gorton	Nunn
Bradley	Graham	Packwood
Breaux	Gramm	Pressler
Brown	Grassley	Pryor
Bryan	Gregg	Reid
Bumpers	Hatch	Riegle
Burns	Heflin	Robb
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Coats	Hutchison	Sarbanes
Cochran	Johnston	Sasser
Conrad	Kassebaum	Shelby
Coverdell	Kempthorne	Simpson
Craig	Kerrey	Smith
D'Amato	Lieberman	Stevens
Daschle	Lott	Thurmond
DeConcini	Lugar	Wallop
Dodd	Mack	Warner
Dole	Mathews	Wofford

NAYS—25

Akaka	Inouye	Mitchell
Chafee	Jeffords	Moseley-Braun
Cohen	Kennedy	Murray
Danforth	Kerry	Pell
Durenberger	Kohl	Simon
Feingold	Lautenberg	Specter
Glenn	Leahy	Wellstone
Harkin	Levin	
Hatfield	Metzenbaum	

The PRESIDING OFFICER. On this vote the yeas are 75, the nays are 25. The judgment of the Senate is that the amendment is germane.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I hope now we can voice vote this particular amendment. Thereafter, the committee is ready to accept it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HOLLINGS. Mr. President, we will try to move it along after we adopt the D'Amato amendment. The committee is in a position to accept an amendment from the Senator from Ohio, one from the Senator from Montana, there are two or three colloquies, and then we will go to the Helms amendment on Nicaragua.

So I urge the adoption of the amendment.

Mr. LEVIN. Mr. President, it is ironic that the Senate is asked to consider what is literally a life and death issue in a context that does not offer us an opportunity to offer amendments, which is an essential aspect of full debate. The fact is that the D'Amato amendment is unamendable because of a procedural rule used by Senator D'AMATO. That means that the Senate is cut off from making changes to some of the very real flaws in it.

For example, the amendment does not actually include a provision that sets forth the sentences for engaging in terrorist acts. It only limits the conditions under which a death sentence can be imposed.

Also, the amendment includes a definition of terrorism which is so broad that it would include activity which would not normally be considered an example of terrorism. Because it does not include a definition of "assassination," the amendment suggests that every assassination is an example of terrorism. Would the murder of a high ranking member of a crime syndicate be an "assassination" under the terms of this amendment? Common slang suggests maybe. No one can be sure, and the procedural context in which this amendment was offered makes it impossible to clarify this ambiguity through further amendment. Similarly, does this amendment intend to classify every use of a chemical agent to damage property an example of terrorism? Is a case of arson for insurance dollars where death inadvertently results an act covered by this language if gasoline or another chemical agent was used to set the fire? Again, the substance of this amendment will suffer as a result of our inability to even try to modify it.

Further, this legislation incorporates by reference the death penalty enacted in 1988. That law includes a provision which requires the jury to determine under certain circumstances if the death penalty is justified and, if it does, then the jury shall recommend the death penalty. The difficulty with this provision is that a jury could at the same time find that the death penalty is justified or that life imprisonment without the possibility of release is justified. But, under the terms of the law that the D'Amato amendment incorporates by reference, this jury would be required to recommend the sentence of death even if that jury believed that some other sentence was also justified. Without the possibility of amending the D'Amato amendment, the Senate would once again be approving making this illogic part of the U.S. law.

So, Mr. President, the D'Amato amendment is not only flawed in its substance, it is flawed in a more fundamental way. In the current procedural context, we are not even able to remove the flaws. Today, the Senate is truly rushing to judgment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 698), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask the committee amendment be temporarily set aside to consider an amendment of the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio.

AMENDMENT NO. 701

(Purpose: To provide that funds may not be expended to implement or enforce the provisions of an order of the Attorney General relating to the jurisdiction of the Office of Inspector General and certain allegations of misconduct, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 701.

Mr. GLENN. 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 28, add after line 22 the following new section:

SEC. 112. No funds appropriated under this Act or any other Act may be expended to implement or enforce Attorney General Order No. 1638-92, dated December 11, 1992 (relating to the jurisdiction of the Office of the Inspector General and certain allegations of misconduct).

Mr. GLENN. Mr. President, I rise today to offer an amendment to the Justice Department's appropriation. This amendment would prohibit the expenditure of funds to implement or enforce Attorney General Order No. 1638-92, dated December 11, 1992. That order guts the jurisdiction of the Inspector General Office [IG] at the Department of Justice and provides the Department's Office of Professional Responsibility [OPR] with authorities that are in violation of the Inspector General Act of 1978.

The committee which I chair, Governmental Affairs, is the authorizing and oversight committee for the entire IG community. I was a strong supporter of the original Inspector General Act of 1978, which created a number of Presidentially-appointed inspector general positions throughout many of the Cabinet departments and agencies. Through the years some of the agencies that had been left out were added to the act's coverage.

I was a principal author of the 1988 Inspector General Act Amendments which created Presidentially appointed IG positions at the last two holdout Departments—Justice and Treasury. Despite misgivings among some Members, Congress acceded to the direct request of Attorney General Thornburgh and did not incorporate the Office of Professional Responsibility into the new Office of Inspector General. That office, with 10 attorneys all working in D.C. and no investigators, was created in 1975, prior to the establishment in the Government of inspector general offices. We made sure to note, however, that the Attorney General had the authority to administratively effect the transfer.

The transfer never took place, and today, Justice stands alone as the only agency with essentially two department-level IG offices. Every other IG office can, and does investigate misconduct allegations relating to any employee within those agencies; these include agencies with staff attorneys, litigators, and criminal investigators as well as other professionals who exercise their judgment and discretion, such as physicians and scientists.

Our 1988 compromise with Attorney General Thornburgh resulted in the situation whereby the IG is required to refer allegations about certain DOJ employees—attorneys, criminal investigator and law enforcement positions—to OPR. In the final rush to reach compromise and prepare the legislative record, we left those terms undefined, but made clear that we were being sensitive to the Department's request that OPR investigate allegations involving the exercise of prosecutorial or litigative discretion in particular cases. It was our expectation that the appropriate Justice Department officials, including the Presidentially appointed IG and the head of OPR, would establish a professional working relationship and ultimately work out the details.

After 4 years of IG and OPR coexistence, this has not come to pass. I have watched with increasing alarm as turf war attitudes and confusion have become the benchmark of the OPR/IG relationship. I am now convinced that the 1988 compromise was a failure and that the existence of two IG offices in main Justice is a mistake. We can wait no longer for a resolution of this matter.

I had planned to take this matter up with President Clinton's new Attorney General after she took office. But without notice to the IG or Congress, in the midst of a Presidential transition period, then Deputy Attorney General Terwilliger decided to decide this issue himself. In November 1992 he wrote a memo to the IG and head of OPR which effectively transferred most of the authority of the IG Office to the OPR. I immediately wrote Attorney General

Barr objecting to the Terwilliger memo and urging him to rescind it.

Instead, Mr. Terwilliger, acting as the Attorney General, signed an Attorney General order which memorialized his own memo. Again, neither the IG nor the IG oversight committee were consulted, nor informed of this decision. This was a transparent political effort to weaken the Justice IG—which has an obligation to report to Congress as well as the Attorney General—and unlawfuly expand OPR's authority before the arrival of the new Attorney General. I wrote Attorney General Barr again, and never received a response to my objections.

This order guts the legislated jurisdiction of the IG office, by broadly rewording the categories of employees that the IG Act subjects to OPR investigation. By the manner and method of its approval, it also shows blatant disregard for the IG Act, the oversight committee and congressional intent. I think nothing short of rescission is an acceptable solution to this problem.

The order is unlawful because it requires allegations of misconduct by all employees in entire components of the Department, regardless of their positions, to be referred to OPR—including the secretaries, paralegals, and administrative personnel in those offices. The OPR assignments include all of the U.S. attorney offices and Office of the Solicitor General. The order assigns allegations of misconduct by employees in other components of the Department solely to the IG—such as the Justice Management Division and U.S. trustees offices, including their secretaries, paralegals, and administrative personnel. The order goes on to provide that OPR will refer back to the IG allegations about its assigned employees only after OPR's 10 attorneys have been able to screen the allegations according to a vague and unarticulated standard.

The unbounded discretion and authority provided to OPR is contrary to the letter and intent of the law. While we agreed to Mr. Thornburgh's request to retain OPR outside the IG office, we did not agree that OPR alone could interpret the act's coverage, regardless of an employee's job description and no matter how far removed that employee is from a law enforcement function.

The clear intent of this order is to preclude and delay the IG from investigating allegations about employees who do not fall within the three categories reserved to OPR by law—attorneys, criminal investigators, and law enforcement officers. On its face, it contributes to an atmosphere of confusion and blurs any clear lines of accountability. For example, who should an allegation of theft by GS-7 secretary who works in a U.S. attorney's office be handled by OPR, while his or her counterpart in the Justice Management Division accused of the same crime be investigated by the IG office?

I continue to object to this order and stated my objection personally to Attorney General Reno when we met on this subject on April 9, 1993. JACK BROOKS, chairman of the House Judiciary Committee, has also expressed his dismay at the continued existence of this order. In April Ms. Reno said she preferred to deal with the order as part of her review of the broader question of IG and OPR jurisdictional issues, and of course, I wanted to give her time to do so.

But 3 months have now passed, and in my view, the longer this order stays in place, the more damage it does. For example, on April 16, 1993, the FBI sent a memo to the Attorney General asking for reconsideration of the December 1992 order. The FBI, who was not consulted prior to the issuance of the order, specifically noted that the order does not provide for a coordination mechanism between the FBI and IG. The FBI then took the liberty of drafting and forwarding to the Attorney General a draft Memorandum of Understanding between the FBI and IG, without consulting or providing any notice to the IG. As this is taking place, there continues to be a battle waged between the IG and INS over the IG's jurisdiction to investigate INS agents, even those who are alleged to have taken a bribe. I do not know if Ms. Reno has acted on the FBI memo, but this infighting is typical of the turf battles and confusion that have marked the failed 1988 compromise.

Another example of the impact of the order is the lack of assistance from or consultation with the Office of the Inspector General in the internal review of the Waco, TX, raid. My Governmental Affairs Committee staff was informed that the order was the basis for the refusal to include the IG in the investigation of the Waco incident. This is in direct contrast to the Treasury IG, who has been working with the team looking at the actions of the Bureau of Alcohol, Tobacco and Firearms agents.

At this time, the General Accounting Office is performing a review of the IG/OPR controversy. I understand that in at least two recent meetings, GAO orally informed DOJ that this order is in violation of the IG Act. GAO will be reporting that finding in its upcoming reports.

At this time I must insist that the damaging, unlawful Attorney General order he revoked so we can all go back to the drawing board and come up with a solution once and for all. I look forward to working with Attorney General Reno to accomplish that goal; I am glad to hear that Justice Department lawyers are revisiting these issues with an eye toward merger. My staff and I are always ready to meet with them and work with them toward an acceptable solution.

In the meantime, since the Attorney General has not revoked the order on her own, and the damage and confusion it sows has continued, I am offering my amendment to prohibit the enforcement or implementation of that order.

I ask unanimous consent that a copy of the order at issue be printed in the CONGRESSIONAL RECORD after my remarks.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC.

JURISDICTION OF THE OFFICE OF THE INSPECTOR GENERAL AND THE OFFICE OF PROFESSIONAL RESPONSIBILITY WITH RESPECT TO ALLEGATIONS OF MISCONDUCT BY DEPARTMENT OF JUSTICE EMPLOYEES (ORDER NO. 1638-92)

By virtue of the authority vested in me as Attorney General, including 28 U.S.C. §§509, 510 and the Inspector General Act of 1978, as amended, I hereby direct that the following procedures be followed in the investigation of allegations of misconduct by Department of Justice employees:

I. Initial referral.

A. Allegations involving officers or employees in the Office of the Solicitor General, United States Attorneys' Offices, the Federal Bureau of Investigation, Drug Enforcement Administration, the Office of Legal Counsel and the Office of Intelligence Policy Review shall be referred to the Office of Professional Responsibility (OPR).

B. Allegations involving officers or employees, except attorneys, in the Immigration and Naturalization Service and the Bureau of Prisons, the Justice Management Division, the Office of Justice Programs, the Executive Office for United States Attorneys, and the Executive Office for United States Trustees, inclusive of the United States Trustees Offices, shall be referred to the Office of the Inspector General (OIG).

C. Allegations that involve officers or employees in attorney positions in any Department component shall be referred to OPR. For purposes of this provision, an attorney is any person who is admitted to practice law and who, as part of his or her normal or assigned duties, provides legal advice and counsel, conducts litigation, or exercises legal judgment or discretion. Allegations involving misconduct by a person who is an attorney shall be referred to OPR regardless of whether the misconduct involved that person's legal work or other, nonlegal duties or actions.

D. Allegations involving persons in a criminal investigative or law enforcement position in any Department component not listed in paragraph A or B shall be referred to OPR. Allegations regarding any other employee not otherwise described above shall be referred to OIG.

E. Allegations involving fraud and other abuse committed by contractors, grantees or other recipients of Departmental benefits shall be referred to OIG.

II. Coordination between the Office of Professional Responsibility and the Office of Inspector General.

A. OIG and OPR will each determine with respect to allegations received in their respective offices whether such allegations implicate the prosecutive, investigative or litigative functions of the Department.

B. Officers or employees discharging prosecutive, investigative or litigative functions are deemed to be "employed in an attorney, criminal investigative, or law enforcement

position" to the extent they perform such functions, regardless of whether the position is classified for other purposes as an attorney, criminal investigative or law enforcement position. This paragraph is included for clarification only and nothing herein affects the allocation of responsibilities under any other provision of this order.

C. When OPR determines that an allegation received by it does not implicate the prosecutive, investigative or litigative functions of the Department, OPR shall refer such allegation to OIG when the allegation concerns waste, fraud or abuse, matters which are presumptively within the jurisdiction of OIG. Such reassignments shall be made regardless of whether the position is classified for other purposes as an attorney, criminal investigator, or law enforcement position.

D. When OIG determines that an allegation received by it implicates the prosecutive, investigative or litigative functions of the Department, OIG shall refer such allegation to OPR because such an allegation is presumptively within the jurisdiction of OPR. Such reassignments shall be made regardless of whether the position is classified for other purposes as an attorney, criminal investigator, or law enforcement position.

E. Each office shall transmit to the other copies of all allegations received by it that implicate persons within the scope of the other office's interest. The OIG and OPR each recognize that this obligation continues throughout the course of an investigation.

F. Any disputes regarding jurisdiction over particular matters that cannot be resolved between OIG and OPR will be resolved by the Deputy Attorney General.

G. Nothing herein restricts the authority of OIG to audit or inspect any component of the Department of Justice.

———,
Acting Attorney General.

Date: December 11, 1992.

Mr. ROTH. Mr. President, as a strong supporter, in my days in the Senate, of legislation which has established an office of inspector general in the various departments and agencies of Government, I rise in support of the amendment offered by the Senator from Ohio. When we established the Office of Inspector General for the Department of Justice in 1988, we compromised by allowing, in statute, the department to have both an office of professional responsibility as well as an inspector general. Inevitably, overlapping jurisdictions provoke turf battles and confusion.

These results are undesirable. I suspect that some time soon Congress will have to revisit this statutory compromise. The recent Attorney General order—which the pending amendment would rescind—apparently has not solved the problem. The pending amendment, if enacted, would take effect in October. Thus the practical effect of the amendment is simply to draw the attention of the Attorney General to this problem in order to prompt a solution. The amendment itself offers no specific answers. Perhaps a new Attorney General order might work to eliminate the confusion and turf battles that have flowed from congressional ambiguity. If the Attorney General believes that the problem cannot be solved by an order, we in Congress ought to be so informed. If the amendment is enacted and nothing happens by October, Congress will be so informed.

What this amendment means is that the problem can no longer be ignored. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 701) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 702

(Purpose: To prohibit funds to be expended for the salary of the United States Commissioner of the International Boundary Commission, United States and Canada)

Mr. HOLLINGS. Mr. President, I ask the committee amendment be temporarily laid aside. I send an amendment to the desk on behalf of the distinguished Senator from Montana, Senator BAUCUS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BAUCUS, proposes an amendment numbered 702.

Mr. HOLLINGS. 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 76, insert between lines 19 and 20, the following new section:

SEC. 503. No funds appropriated or otherwise made available under this Act or any other Act may be expended for the salary of the United States Commissioner of the International Boundary Commission, United States and Canada.

Mr. BAUCUS. Mr. President, I offer an amendment concerning the salary paid for the position of International Boundary Commissioner, a job that currently pays $70,000 a year.

For this sum, the Boundary Commissioner oversees what may be the smallest agency in the Federal Government—the International Boundary Commission.

This agency was established pursuant to a 1908 treaty between the United States and Great Britain. Its sole function is to look after the appearance of the border between the United States and Canada; in other words, to make sure the border strip is mowed and the boundary markers are maintained.

The last person to hold this job was a Montanan. And, although he was my opponent in the last election, I can tell you he is a very, very fine gentleman who has devoted most of his life to public service.

However, as a border commissioner, he freely admits that he worked only about 60 days each year.

Moreover, the previous commissioner described the position as "more of a hobby than a job" and refused to accept compensation for the days he did not actually work.

So $70,000 for 60 days work. That comes out to $1,167 per day—much too much for the work involved.

For that reason, my amendment will urge the Senate to agree to eliminate the compensation for the job. It should be an honorary job.

I think it is time to give the taxpayers a break. At the appropriate time, I will offer and urge the adoption of the amendment.

I thank my good friend from New York very much for allowing me to have this time.

Mr. HOLLINGS. Mr. President, this amendment has to do with the International Boundary Commission. It has been cleared on both sides for the Senator from Montana, am I correct, Senator?

Mr. DOMENICI. The Senator is correct.

Mr. HOLLINGS. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 702) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD at this time a letter from the Secretary of Commerce, Secretary Ron Brown, relative to the bill.

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

THE SECRETARY OF COMMERCE,
Washington, DC, July 27, 1993.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for supporting the Department of Commerce's FY 1994 budget request during the Senate appropriations process. The Department strongly endorses the approach taken by the Committee.

The resources provided allow us to accomplish the President's goals and to carry out our strategic vision of supporting technology development, expanding trade opportunities, promoting stewardship of the globe environmental, and enhancing economic and community development. In particular, we are gratified by the Committee's efforts to fund as much as of the "investment" package as possible. These programs support key technology, telecommunications, defense conversion, and environmental infrastructure initiatives.

Funds provided for the National Institute of Standards and Technology (NIST) will be

used to expand several successful technology initiatives, including the manufacturing extension program, which support the development, commercialization and application of new technology. The restoration of the facilities request, deleted by the House, is greatly appreciated. NIST laboratories are in urgent need of repair and replacement if the agency is to continue its leadership role in assisting U.S. manufacturing industries to maintain their leading edge in the global market place.

The Department's trade policy and promotion programs remain a high priority. We are committed to increasing U.S. exports and expanding trade opportunities abroad, and are encouraged by your strong endorsement of the Department's trade request. FY 1994 funding will ensure enforcement of U.S. trade laws, maintenance of a strong Foreign Commercial Service presence overseas, and continued assistance to the U.S. travel industry. The additional funds for Import Administration will allow ITA to help eliminate the backlog of antidumping and countervailing duty reviews.

The Committee allowance for the National Oceanic and Atmospheric Administration (NOAA) supports the Department's commitment to modernizing the National Weather Service (NWS) while maintaining the NWS base. Your allowance also addresses the problems of aging infrastructure for NOAA's fleet, aircraft, and facilities.

The Committee allowance for the National Telecommunications and Information Agency (NTIA) provides the resources and appropriations language necessary to develop a National Information Infrastructure (NII). The goal of the NII is the facilitation of the connection of the Nation's business, schools, health care facilities, and public information providers through an interactive telecommunications network. Thus, we also appreciate the Committee's support for the President's telecommunications research request.

The funding level for the Economic Development Administration significantly increases assistance through the President's Defense Conversion program, which will be a main theme of EDA's immediate future. Grants will be used to assist communities implement base reuse plans and develop long-term economic strategies for addressing defense procurement cutbacks and base closures. The Department supports the Committee's action to terminate Trade Adjustment Assistance. Through our efforts to streamline the Commerce service delivery system, we will continue to provide business assistance through the Manufacturing Technology Centers, ITA's domestic offices and the Minority Business Development Agency's (MBDA) Business Development Centers.

Funds provided for MBDA will support my commitment to upgrade and revitalize the agency. Additional resources will place the MEGA Center program on a firm footing.

Thank you again for your continued support of the President's investment items and the Department of Commerce programs. We look forward to working with you as you prepare to bring our bill to the Senate floor and to resolve differences with the House in conference.

Sincerely,

RONALD H. BROWN.

NOAA

Mrs. MURRAY. During the subcommittee markup of these appropriations a provision was added to the report directing National Oceanic and Atmospheric Administration [NOAA] to expend the balance of funds appropriated in fiscal year 1992 and fiscal year 1993 for a new NOAA facility in Juneau.

Mr. HOLLINGS. The Senator is correct.

Mrs. MURRAY. As the chairman is aware, NOAA's Sand Point facility is an integral part of the Seattle community and that the programs and projects conducted there are important to the recreational and commercial fisheries in the whole region. It is my understanding that the provision concerning the Juneau facility is not intended to interfere or change the mission of NOAA's Sand Point facility.

Mr. HOLLINGS. That is my understanding. The provision concerning the planning and survey funding for a new Juneau, AK, facility is not intended to change or modify the work that is being conducted by NOAA's Sand Point facility.

COLUMBIA RIVER BASIN ENDANGERED SALMON

Mr. HATFIELD. Senator GORTON and I would like to engage the distinguished chairman and ranking member of the subcommittee in a short colloquy concerning funding for the official recovery team which is preparing the draft recovery plan for the Snake River salmon runs which have been declared threatened and endangered by the Secretary of Commerce.

Mr. HOLLINGS. I would be pleased to discuss this matter with my colleagues from the Pacific Northwest.

Mr. HATFIELD. As a member of the Appropriations Committee who represents one of the States affected most by the Snake River endangered salmon listings, I want to ensure that the National Marine Fisheries Service has sufficient funds in its fiscal year 1994 appropriation to fund adequately the operations and recommendations of the recovery team.

I am pleased that the subcommittee has fully funded the President's budget request for Columbia River Basin salmon and Endangered Species Act activities, and appreciate the tremendous pressures under which the chairman and ranking member have labored in developing the bill currently before the Senate. Accordingly, I support the programs and the funding levels in the bill as reported by the committee, and have no desire to alter the committee's salmon-related recommendations.

Mr. GORTON. I, too, would like to thank the chairman and ranking member of the subcommittee for fully funding the President's request for Columbia River Basin Endangered Species Act activities. Recognizing that the subcommittee's allocation was some $1 billion below the request level, I very much appreciate the subcommittee's efforts to accommodate both Senator HATFIELD'S and my concerns.

Mr. HOLLINGS. I thank the Senators for their support in developing this bill.

Mr. HATFIELD. The problem we face in the Northwest, however, is of a very serious nature as it relates to the salmon listings. The recovery team has been working for the past year and a half in developing its draft recovery plan, and it is hoped that it will be completed and released to the public this fall. We are anxious that the recovery team finish its work and that the recovery plan can be put in place as soon as possible.

Unfortunately, there is a great deal of uncertainty involving the recovery team's process. The team is unable to determine when its work will be completed and when the plan will be enacted by the Department of Commerce. I am concerned that unforeseen expenses relating to either the recovery team's preparation of its plan or the activities required by the plan could hinder its implementation.

For this reason, and considering the serious nature of the listings and their potential impact on the environment and economy of the Columbia River Basin, I would propose that in the event that funds are found to be insufficient to meet the needs of the recovery team or any monitoring or evaluations which may be required by the recovery plan, that NOAA use its transfer authority to provide the necessary funds. Specifically, I believe that NOAA would have sufficient funds in its construction account that could be transferred to its operations, research, and facilities account to fund the recovery team's activities if the need arose.

Mr. HOLLINGS. I understand the importance of the threatened and endangered salmon listings to the Members from the Pacific Northwest, and believe this to be a reasonable request. I would join my colleagues in urging NOAA to transfer funds from its construction account to its operations, research, and facilities account to cover any funding deficiencies associated with the recovery team's activities.

Mr. DOMENICI. I concur with the comments of the subcommittee chairman, and will work with my friends from the Pacific Northwest and NOAA to ensure that the recovery team's operations and recommendations will be funded adequately.

Mr. HOLLINGS. I think the agreement now is the distinguished Senator from North Carolina is to be recognized.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I believe I will wait until we have a modicum of order.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The Chair recognizes the Senator from North Carolina.

AMENDMENT NO. 703 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 8, LINE 16

(Purpose: To restrict assistance for Nicaragua until certain conditions are met)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated including the names of the distinguished Senators who are cosponsors and ask its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. DOLE, Mr. COVERDELL, Mr. MCCAIN, Mr. MACK, Mr. D'AMATO, Mr. COCHRAN, Mr. PRESSLER, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. BROWN, Mr. LOTT, Mr. GREGG, Mr. MURKOWSKI, Mr. BURNS, Mr. WALLOP, and Mr. MCCONNELL, proposes an amendment numbered 703.

Mr. HELMS. 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 pending amendment, insert the following:

"RESTRICTION ON ASSISTANCE FOR NICARAGUA

(a) RESTRICTION.—Funds appropriated or otherwise made available under this or any other Act, including any funds which were obligated but not expended under any prior Act—

(1) may not be obligated or expended for the Government of Nicaragua; and

(2) may not be obligated or expended to any other country or international financial institution for reduction of any Nicaraguan indebtedness to that country or institution, until the President certifies to Congress that—

(A) the Government of Nicaragua has identified, apprehended, and brought to justice all individuals responsible for the provision of Nicaraguan passports discovered in connection with the February 26, 1993, bombing of the World Trade Center in New York;

(B) an independent international investigation, with the participation of appropriate United States law enforcement personnel, into the origins, leadership, funding, and activities of the international criminal network revealed by the explosion in Managua, Nicaragua, on May 23, 1993, has occurred and that the Government of Nicaragua has fully and completely implemented all recommendations of the investigation; and

(C) none of the senior officials of the Government of Nicaragua, including officials of the Sandinista Popular Army, the Sandinista National Police, and all intelligence services, is involved in, or provides support for, or any act of international terrorism.

(b) REPORT.—Not later than 30 days after the date of enactment of this section, the Secretary of State shall, in consultation with the Federal Bureau of Investigation, the Immigration and Naturalization Service and any other appropriate Federal agency, submit a report to Congress on the extent of involvement by the Government of Nicaragua in international terrorist and criminal activities since April 25, 1990. Such report shall—

(1) include information on terrorist groups with an office or presence in Nicaragua and on arms storage in and arms smuggling and trafficking from Nicaragua;

(2) include information on the use of Nicaraguan passports in international terrorist activities, including the February 26, 1993, bombing of the World Trade Center;

(3) state whether the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) concerning Nicaragua's support for international terrorism and, if the Secretary has not made such a determination, shall contain a detailed explanation of the reasons for not doing so;

(4) state whether the Secretary of State has made a determination under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) concerning Nicaragua's support for international terrorism and, if the Secretary has not made such a determination, shall contain a detailed explanation of the reasons for not doing so;

(5) state whether the President has made a determination under section 554 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391) concerning Nicaragua's support for international terrorism and, if the President has not made such a determination, shall contain a detailed explanation of the reasons for not doing so; and

(6) include information on individuals or groups in the United States who aid or abet guerrilla or terrorist operations in violation of U.S. law in Nicaragua.

(c) EXEMPTION.—The restriction in subsection (a) shall not apply with respect to funds made available under chapter 9 of part I of the Foreign Assistance Act (relating to disaster assistance) if such funds are notified in advance in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2393a).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Government of Nicaragua" means the government, any political subdivision thereof, and any agency or instrumentality thereof, including the armed forces and the security forces, and the judiciary, of Nicaragua;

(2) the term "international financial institution" includes the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Central American Bank of Economic Integration, and the International Monetary Fund; and

(3) the term "senior official" refers to—

(A) a vice-minister or minister of a government ministry;

(B) a director or deputy director of a government institute or parastatal;

(C) an individual with the rank of lieutenant colonel, or with an equivalent rank or above, in the armed forces or intelligence services; or

(D) an individual with the rank of sub-commander or above in the national police."

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the word is out and the world has now been made aware of the terrorist network operating out of Nicaragua. Last year the Republican staff of the Senate Foreign Relations Committee completed an exhaustive report which detailed, among a multitude of other sins, the terrorist network based in Nicaragua. There was much hooting and howling among the liberal news media at that time, who declared Madam Chamorro to be impossible of error and discounted reports that anything of a serious nature was going on in Nicaragua. Once again, the liberal media were wrong.

Mr. President, we should have order in the Senate, please.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order.

Mr. HELMS. I thank the Chair.

On May 23 of this year, a massive weapons cache accidentally exploded in Managua, Nicaragua.

It was a sophisticated arsenal with tons of weapons which included millions of rounds of ammunition and 19 surface-to-air missiles. This cache was a sort of one-stop shopping center for terrorists. There were hundreds of passports from many countries available. There were stamps for marking both entry and exit on passports and dozens of false driver's licenses and identification cards.

So Nicaragua now stands exposed as the headquarters of a multinational terrorist enterprise with tentacles spreading around the world. Documents found after the explosion revealed an elaborate network of kidnapping and terror which operates throughout the hemisphere, working closely with the Basque-Spanish terrorists, among others. Also uncovered, Mr. President, was evidence of operations in and links with terrorists from Chile, Mexico, Brazil, and many other countries.

So now it is clear that Nicaragua is continuing subversion of its more immediate neighbors. The FMLN guerrillas from El Salvador stashed their weapons in Nicaragua, in blatant violation of the Salvadoran peace accord. The U.N. Secretary General termed the FMLN's use of the arms cache as, and I quote him, "the most serious violation to date" of the Salvadoran peace agreement.

This discovery should come as no surprise, Mr. President, when one recalls seven Nicaraguan passports were discovered in connection with the bombing of the World Trade Center in New York City. For more than 20 years, the Sandinistas in Nicaragua have had links with terrorist groups on three continents. They are part and parcel of what one expert called "the network of ideologically exhausted Marxist extremist groups."

Nicaragua maintains full diplomatic relations with the PLO, with Libya, and with Cuba. Cuba's Ambassador to Nicaragua is now under indictment in the United States, by the way, for narcotics trafficking.

There should be no doubt about the nature of the Nicaraguan regime that is known to have murdered hundreds of former freedom fighters. Virtually nothing has been done about the thousands of pieces of property stolen from

American citizens in Nicaragua. The Communist Sandinistas completely control the Nicaraguan armed forces, the police, the intelligence service, the immigration service, the courts, and the legislature. President Chamorro has charmed the U.S. State Department and the gullible news media in Washington, New York, and elsewhere. But the most charitable assessment of this lady is that she is not now, and never has been, in control of the government she was elected to head in 1990.

But let there be no doubt that the Sandinista military intelligence apparatus is and has been running the show in Nicaragua. These Communist thugs knew full well about that arms cache, to which I referred just a minute ago, and many more of these caches, which no doubt exist but which have not yet been uncovered.

By the way, Mr. President, to show you how sophisticated all this is, there was one vault which contained hydraulically operated metal doors and a series of chambers connected by a tunnel network. When United States Ambassador-designate to Nicaragua, John Maisto, was asked last week whether he had any doubt about the Nicaraguan military's knowledge of the arms cache, he responded, "absolutely not."

So, Mr. President, the pending amendment, which is cosponsored by 17 distinguished Senators, is very simple: It withholds foreign aid until President Clinton, or whoever is President at the time, certifies that: one, the Government of Nicaragua has brought to justice all Nicaraguans involved in providing passports in the World Trade Center bombing case; two, that an independent investigation into the Nicaragua terrorist network has been conducted; and, three, that no senior official of the Nicaraguan Government is involved in supporting international terrorism.

The pending amendment does not prohibit the delivery of disaster assistance for the long-suffering people of Nicaragua, but it does cut off all aid to the disastrous Government of Nicaragua.

Finally, the amendment calls for a report on the terrorist network in Nicaragua and specifically whether the administration has determined Nicaragua is a state sponsor of terrorism in accordance with various provisions of United States law.

I reiterate, the pending amendment is cosponsored by the distinguished Republican leader, Mr. DOLE, as well as Senators COVERDELL, MCCAIN, MACK, D'AMATO, COCHRAN, PRESSLER, CRAIG, SMITH, NICKLES, BROWN, LOTT, GREGG, MURKOWSKI, BURNS, WALLOP, and MCCONNELL. I urge all of my colleagues to support this simple provision to stop sending U.S. aid to a government which is, in the words of the Miami Herald, "a terrorist haven."

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to express my appreciation to my colleague from North Carolina for his amendment, but in addition I would like to thank him for his continued efforts to bring about peace and stability in Central America, and for his long involvement in these issues.

I note the presence of the distinguished Senator from South Carolina, the chairman of the Commerce Committee. I would also like to note his long, many years of involvement on this issue, his support for those who struggle for freedom in Nicaragua and other places throughout the world, and his strong support for free and fair elections in El Salvador.

So I find myself on the floor with friends of freedom and democracy. I say that not because we are of a like mind, but because I think the record proves that we have come a very, very long way in bringing about peace and freedom in Central America. But recent events clearly indicate that we have a long way to go.

As Senator HELMS mentioned, recent press reports have brought to light a situation in Nicaragua that those of us interested in issues affecting the hemisphere have been concerned about for some time.

An explosion in Managua on May 23, 1993, revealed caches of arms and information concerning a terrorism and kidnaping campaign of massive proportions.

The volume of munitions found that day in the ruins of an auto repair shop would exceed the imagination of some of our century's most infamous terrorists: Antitank mines; C-4 explosives; 81 millimeter mortars; 60 millimeter mortars; machine guns; rocket launchers; Soviet-made SAM 7's; TNT; detonators; rifles; grenades; grenade launchers; and ammunition for .50 caliber and M-60 machine guns.

Unfortunately, Mr. President, this list is only a partial one. It cannot account for the munitions lost in the explosion, an explosion so great that it destroyed 23 houses and 21 vehicles and scattered human remains in a 300-meter radius around the auto repair shop.

In addition to the cache of arms, authorities investigating the explosion found evidence that the Sandinistas have been supplying more than arms to our hemisphere's terrorists. One diplomat has described the contents of the vault as a "one-stop shop" for terrorists. The aspiring terrorist had not only his pick of weapons but could choose from passports of 21 different nations, passport stamps, driver's licenses, and ID cards.

If the terrorist was in need of additional targets or unsure about the whereabouts of his intended victim, he might also obtain assistance in Managua. Uncovered on May 23 were details of a Marxist kidnaping scheme targeting wealthy businessmen and influential people throughout the hemisphere. Dossiers found in Managua listed more than 100 potential kidnaping targets and detailed their daily habits. Many of the targets were subjects of brief written profiles and appear from the dossiers to have been stalked by Marxist terrorists.

Most importantly and quite ominously, the discovery of this "one stop shop" has serious implications for the investigation of the World Trade Center bombing. It might be remembered that passports in the possession of individuals apprehended in connection with the World Trade Center bombing have been traced to Nicaragua.

In an effort to assess the extent of Sandinista terrorist activities throughout the hemisphere, the amendment offered by Senator HELMS, myself, and others halts United States assistance to Nicaragua until the President certifies to Congress that no senior Nicaraguan officials are involved in international terrorism and that an independent international investigation into Sandinista terrorist activities has taken place.

The amendment further conditions United States assistance to Nicaragua on bringing to justice those individuals responsible for providing passports to suspects in the February 26, 1993, bombing of the World Trade Center.

The terrorism of the Sandinistas has undermined the stability of Latin America for over a decade and many of us interested in peace in the hemisphere have said as much. Now their terrorism threatens Americans here at home.

Not a dime of United States assistance should go to Nicaragua until we have uncovered the extent of the FSLN's connection to the World Trade Center bombing, and revealed the true extent of the Sandinista terrorist network.

There is a vision of the future shared by the elected leaders of the Western Hemisphere. It is a vision embodied in the North American Free-Trade Agreement; the Enterprise for the Americas Initiative; and the democratic, free-market reforms that are sweeping Latin America. It is a vision that seeks to write a new, more hopeful chapter in United States-Latin American relations; one based on mutual respect, free markets and free minds.

I think I speak for my colleagues when I say that with the collapse of international communism, the election of Violeta Chamorro in Nicaragua, and the conclusion of a peace accord for El Salvador, we are ready on a bipartisan basis to face this brave new world.

We must remember, however, as we act on this bold vision, that there are

still elements throughout Latin America that would see it thwarted. In their struggle for power and the legitimization of tyranny, these elements hold firm to the maxim that the ends justify the means.

Nothing is more indicative of the insidious threat that undemocratic forces wielding this philosophy still pose to our vision for the hemisphere than the information that was exposed in Managua on May 23.

Many of us not only warned of the terrorist activities of the FSLN but recognized that when Violeta Chamorro retained Humberto Ortega as the commander in chief of the Sandinista Popular Army, these activities would probably continue.

Unlike the U.S. Armed Forces, which are precluded from bringing their power to bear in the political affairs of the Nation, the Sandinista Army serves as an organ of the party. It was at the disposal of the Sandinista leadership throughout the 1980's and it remains at their disposal today.

A recent article in the New York Times indicates that perhaps this army has even continued in the needless slaughter of their own civilians.

"Nicaraguans Say Army Had a Hand in Attack" is the lead article, and it concerns an attack by Sandinista soldiers against what appeared to be rebels at the time.

Apparently, and I quote from the article:

Diplomats say that a closer examination of the attack strongly suggests complicity at the highest levelsof the country's army, which remains under Sandinista control although the Sandinistas lost the elections in 1990.

Many residents of this town, long a Sandinista bastion, say they believe the attack by disgruntled, demobilized Sandinistas on Wednesday was planned, mounted and terminated with the involvement of the country's armed forces.

Mr. President, I ask unanimous consent that this article in its entirety be printed in the RECORD.

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

[From the New York Times, July 26, 1993]

NICARAGUANS SAY THE ARMY HAD A HAND IN ATTACK

(By Howard W. French)

ESTELÍ, Nicaragua, July 25.—At first blush, the attack of former Sandinista soldiers against this provincial town last week appeared to be a simple affair, but almost as soon as the guns went quiet a darker picture of intrigue and betrayal began to emerge.

Diplomats say that a closer examination of the attack strongly suggests complicity at the highest levels of the country's army, which remain under Sandinista control although the Sandinistas lost the elections in 1990.

Many residents of this town, long a Sandinista bastion, say they believe the attack by disgruntled, demobilized Sandinistas on Wednesday was planned, mounted and terminated with the involvement of the country's armed forces. The resurrected Sandinistas, who used to refer to one another as compañeros, now call themselves the "Recompas."

"From inside it sounded as if the Vietnam War was being fought all over again," said one of the town's businessmen, describing the Nicaraguan Army's recapture of Estelí on Thursday amid the boom and clatter of helicopters firing rockets and thick streams of automatic-weapons fire. "But when you took a peek outside, you realized that most of the shooting was aimed at the sky. Then, when the Government decided they wanted to end it, suddenly they just cleaned up."

$4 MILLION REPORTED TAKEN

In the capital, Managua, diplomats said that the attack on Estelí had been openly planned for weeks by a former Sandinista major, Victor Manuel Gallegos. Major Gallegos escaped unharmed in broad daylight with a reported $4 million stolen from local banks.

Diplomats and many Nicaraguans who see the fighting in Estelí as another sign that the country's transition to democracy is veering dangerously toward failure, say that the attack on the town reveals the complex layers of rivalry and betrayal common in the increasingly violent shadow games of Nicaraguan politics.

The army commander, Gen. Humberto Ortega, a Sandinista whose retention of his command after the opposition won democratic elections in 1990 has been a steady source of tension, strongly denied army involvement in the attack on the town.

Instead, he proclaimed the operation a great success for the army and condemned the Government for creating conditions that were seeding violence in the country.

LACK OF HELP NOTED

For months, the 78,000 demobilized Sandinista soldiers and 23,000 former contra rebels have been grumbling that despite a series of pardons and promises of economic aid the Government had done little to generate economic growth or help in their return to productive civilian life.

Some diplomats and Nicaraguans say General Ortega, the brother of Daniel Ortega, the President under Sandinista rule, faced mounting opposition from disgruntled former Sandinista soldiers who had fallen under the sway of the more radical elements of their political movement.

Among their grievances is the complaint that by participating in the Government of the civilian President, Violeta Barrios de Chamorro, the Sandinista movement is discrediting itself.

Despite the fact that the Government is widely seen as broadly accommodating in its approach to the Sandinistas, Daniel Ortega delivered a fiery speech last week in which he warned that only profound changes would allow the Government to survive the remaining three years of its six-year term. Far from an attempt to distance the Sandinistas from the Government, Mr. Oretga's speech was viewed by many here as a bid for a senior role for himself.

General Ortega recently urged Mrs. Chamorro to extend a pardon to more radical Sandinista elements in an effort to neutralize them, diplomats said.

Having failed to obtain the pardon, diplomats say, General Ortega allowed the Recompas' attack on Esteli to proceed, even though it had been publicly announced at least two weeks in advance.

Supporting this view, the diplomats say, is the fact that the buses carrying the 120 or so Re-compas into Esteli passed unmolested by the army camp at the city's gates. Furthermore, soldiers based in and around the town waited at least three hours before responding.

When the time came to put an end to the operation, army soldiers killed a reported 41 of the rebels, who many say had been led to expect more gentle treatment by their former comrades. In one sweep, diplomats said, General Ortega eliminated potentially troublesome rivals and positioned himself as savior of the nation's order and security.

"This whole thing is about as cynical as you can get," said a Latin American diplomat. "We had meetings with soldiers and police in Esteli 10 days ago who told us this attack was coming. What we are talking about here is the sacrifice of lives: the lives of the rebels, the lives of the soldiers, but mostly the sacrifice of lives of ordinary people."

FORMER CONTRAS TAKE UP ARMS

While the army has flirted with the Recompas, Nicaragua's conservative politicians have forged ties with the former contras, formerly supported by the United States, who now call themselves Re-Contras. They too have increasingly begun to take up arms.

In the most striking example of these ties, the Vice President, Virgilio Godoy Reyes, an outspoken critic of his own Government's collaboration with the Sandinistas, recently traveled to areas patrolled by these rebels to visit with their leaders.

"They wanted to express their grievances at the highest level, and I just went to hear them out," Mr. Godoy said, defending himself in an interview against widespread criticisms.

Critics of Mr. Godoy and other conservative politicians like him say they are providing moral and perhaps other kinds of support to the Re-contras, encouraging them to build up a force that could act as a proxy in a political struggle against the Government of Mrs. Chamorro, which conservatives say long ago sold out to the Sandinistas. The Recontras have also drawn sustenance recently from volatile groups of anti-Castro Cuban exiles based in Miami, which have openly acknowledged sending them money.

Operating in a broad band of territory in the north of the country, the Re-contras, who claim to number 4,800, but are widely believed to be considerably fewer, have many of the same grievances as their former Sandinista Army enemies: the lack of land, credits and jobs. On top of this however, the most emotionally potent element of discontent for many of the Re-contras is the slaying of what they estimate to be 200 of their comrades at the hands of the Sandinista Army since the civil war ended.

Mr. MCCAIN. In my estimation and that of many other well-informed observers, the caches of arms and documents uncovered on May 23 could not have existed without the knowledge and cooperation of the FSLN and the Sandinista Popular Army.

In fact, there were eyewitness accounts on the morning of May 23, of Thomas Borge, one of the founders of the FSLN and former Interior Minister, arriving on the scene of explosion in his pajamas. Mr. Borge, who incidentally holds no position in the current Nicaraguan Government, has a history of successfully manipulating the Sandinista power structure to his advantage. He also has a history of ties to

the Basque Separatist movement, individual members of which seem to have been closely involved in the management of the arsenal in Managua.

I am certain that the damage Mr. Borge was there to assess on the morning of May 23 had nothing to do with the pain and misery caused by the explosion. Knowing Mr. Borge, it is more likely that he was there to survey the damage to his own power base and to assist his Basque caretakers.

The investigation to date by Nicaraguan authorities has not been sufficient, and frankly, given the pervasive power of the Sandinistas from the rank and file of the militia to the office of the Presidency, I doubt it will ever be thorough. My guess is that if left to the Nicaraguan Government, the investigation will dismiss the information uncovered on May 23 as a vestige of an earlier era.

The discoveries cannot be so easily dismissed.

As was the case before the election of Violeta Chamorro in 1990, the Sandinistas have far more military equipment than they can ever use, including hundreds of thousands of assault weapons, and millions of rounds of ammunition.

The evidence, and much of the public record, indicate that the Sandinistas are not allowing the surplus of arms to go to waste. There has been an unmistakable and consistent pattern of Sandinista weapons trafficking over the last 3 years.

In May 1990, only months after Violeta Chamorro was sworn in as President of Nicaragua, reports surfaced that following their defeat, the Sandinistas had managed to make 19 new arms shipments to their allies.

In fact, despite Nicaraguan protests that such activity was only recently discovered, as early as September 1990, the Nicaraguan Government itself acknowledged that the Sandinistas were providing arms to the FMLN, the guerrilla movement in El Salvador.

There have been a great many more such discoveries between now and then, including arms uncovered on May 23 which the FMLN freely acknowledged were destined for El Salvador. Additional caches of weapons for the FMLN were uncovered in Nicaragua on June 5, June 7, and June 12.

Arms originating from Nicaragua have been found on their way to Communist guerrillas in Guatemala and in the hands of Columbian terrorists, Chilean terrorists, and Honduran terrorists. As recently as a couple months ago, arms from Nicaragua destined for Colombian drug lords were found in Costa Rica and Panama.

Let there be no mistake. The arsenal uncovered on May 23 is not the vestige of an earlier era. It is another chapter of the current era in which the expressed will of the Nicaraguan people has been subverted by a shrewd, well-armed minority with a penchant for international terrorism.

I have always been proud of my support for freedom in Nicaragua generally, and my past support for President Chamorro specifically. To my deep disappointment, the prospect for freedom in Nicaragua—so vivid on the day of President Chamorro's inauguration—has been squandered by her government.

This loss of control continues to threaten nations beyond Nicaraguan's borders and far from her soap opera-like family squabbles.

The American people would be hard pressed to understand how the U.S. Government could continue supporting a government which poses a direct threat to the security of other nations in this hemisphere, including our own.

I ask that the Senate support Senator HELMS' amendment and our efforts to limit assistance to Nicaragua until we can fully assess and put a stop to their involvement in international terrorism.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. COVERDELL].

Mr. COVERDELL. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina and my colleagues of which I am an original cosponsor. Like Senator MCCAIN, I had the opportunity to help celebrate a new democracy in our hemisphere when I attended the inauguration of Madam Chamorro in Managua in 1990. Nobody could have been present on that beautiful day and not have been moved by the democratic accomplishments of the people of Nicaragua.

I think in the celebration perhaps too many of us forgot what was about to be inherited. That was an effort to create a democratic government in the direct line of fire of an armed adversary, the Sandinista Army.

The task left to Madam Chamorro, in my judgment, was too great. It took too far a reach, and we are now seeing the result.

I again visited Nicaragua in late April and May of this year. I met with the President, her advisers, the foreign minister, the Tripartite Commission—which is investigating murders—and other distinguished citizens of Nicaragua. After several intense days of discussions, my final meeting was with Foreign Minister Leal. I suggested to him my concern for what their government was confronted with and what they were endeavoring to do, but said that unless the Government of Nicaragua can resolve three issues, its prospects would be very, very dark.

The first major problem is a lack of respect for property rights. There can be no investment in Nicaragua without a resolution of the thousands of cases of properties that were seized by the Sandinistas and others, and for which the Chamorro government, no matter its effort, has been unable to resolve. Foreign interests with foreign investment, without any confidence of the security of their property cannot be made. Without foreign investment, Nicaragua cannot recover.

The second key problem in Nicaragua is that of human abuses. I met, as I said, with the Tripartite Commission, with each member. There can be no doubt that human rights violations are regularly occurring with impunity and with no resolution. The other day Ambassador-designate Maisto was speaking to the Foreign Relations Committee. He read the charge, as he understood it, from President Clinton. The charge said, "You are instructed to promote human rights." Property and civil rights do not receive full protection in Nicaragua.

The third problem is lack of civilian control over the military. In the meeting with Minister Leal, I said,

> In the final analysis, so long as Nicaragua is confronted with Umberto Ortego, and Lenin Cerna, head of the intelligence, the prospects remain gloomy because the government effort, however good, however qualified, are overpowered by an army that still holds its allegiance to the principles of the Sandinistas.

At the end of the discussion in the Foreign Relations Committee, four questions were asked the Ambassador-designate regarding promises made by the Nicaraguan Government to the U.S. Government. Have the Nicaraguan Army members accused of murdering ex-resistance fighters been sentenced or brought to justice? A very important question. The Ambassador-designate said, "No."

Have 85 percent of the claims of American property holders in Nicaragua been adjudicated as promised? The Ambassador-designate said, "No."

Has a human rights ombudsman been created for Nicaragua? The Ambassador-designate said, "No."

Has legislation been submitted in Nicaragua that would limit the term of service of military officers like Ortega? Surprise. The answer again was, "No."

We have been debating for some time about giving the Chamorro government room to deal with internal matters. That is a reasonable argument. But I suggest that when this military cache that was just described by Senator HELMS and Senator MCCAIN was discovered, and when we found a plot of passport violations and transgressions, when we found a cache subject to support of terrorism throughout the world, when we found a list of targets, international targets for kidnapping, we moved into a new era, one of international involvement and pressure. It is no longer an internal matter. It is now an international matter and one that is occurring in our backyard, in this hemisphere.

I suggest that rather than proceed with the idea that, if we just send some more money, this will work itself out, it has come to the point that what the Chamorro government needs most is an outside ally that will bring pressure to help her bring balance to the situation in Nicaragua and help put this Sandinista Army to the side.

In closing, Mr. President, let me simply say that this is a small country, we are not talking about a large population, but it is in our hemisphere. We are talking about our attitude toward democracy in our hemisphere. We are engaged at this very moment, I think by everybody's acknowledgment, in the definition of what the world will be, what our hemisphere will be in the balance of this decade and in the new century. And in that context, these activities that are occurring in our hemisphere in Nicaragua, in our backyard, deserve our undivided attention. And the best alliance that we could make to this government right now is embraced in the amendment that is offered by the Senator from North Carolina.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. HOLLINGS.

Mr. HOLLINGS. Mr. President, I commend the distinguished Senator from Georgia on his very comprehensive statement relative to Nicaragua and the amendment by the distinguished colleague from North Carolina. I was charmed by Chamorro, and I have been just as disappointed as all of us at the trend of occurrences down in Nicaragua.

If I were the President of Nicaragua's lawyer, though, I would just say just like we do not do this and we do not do that, I would counsel, I would say, "Tell that United States Senate up there that they don't know what they are doing," because we are directing remarks about sending money down to Nicaragua, and there is not a red cent in this bill for Nicaragua. I only have to make this comment in observation to try to get our colleagues to withhold for the foreign relations authorization bill, which will be momentarily on the floor and will be appropriate. The judicial crime bill and otherwise from the judiciary committee will be on the floor. And the terrorism amendment will be appropriate there. You are going to have this particular committee of yours going into conference on the other side with all kinds of things pertinent to everybody else but our particular concern and jurisdiction. I say that in all sincerity. I favor the amendment.

I think it is well conceived, and I think a notification should be given. I think this is an inappropriate way, and I am not going to raise any point. In fairness to the distinguished chairman of the Foreign Relations Committee—excuse me, Senator HELMS is the ranking member, I believe—and the ranking member, I try to respect your jurisdiction. That is all I am trying to say. I hope these 60 amendments we have listed, 30 of which have nothing to do with our bill, but everybody wants to get up here and demonstrate. If we can cut off the lights and go back to how we did it in the old times and talk to each other, we can get through this bill in the next hour. But I do agree with what you are saying.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, this amendment, as the Senator just stated, relates to foreign assistance provided under the Foreign Assistance Act, and that would properly be addressed in the Foreign Relations Committee. The committee will be marking up the fiscal year 1994 foreign assistance reauthorization bill soon and will address this important issue at that time.

There are obviously troubles and problems in Nicaragua that deserve to be looked over. I am not sure this is the right wording. I hope that if this survives, the wording could be adjusted so that it is not quite as restrictive.

In any case, I do not think it belongs in this bill at this point. I wanted to make that a matter of record.

The PRESIDING OFFICER. Is there further debate?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 77, nays 23, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—77

Akaka	Ford	Mathews
Baucus	Glenn	McCain
Bennett	Gorton	McConnell
Bond	Graham	Moynihan
Bradley	Gramm	Murkowski
Breaux	Grassley	Nickles
Brown	Gregg	Nunn
Bryan	Hatch	Packwood
Burns	Heflin	Pressler
Byrd	Helms	Pryor
Chafee	Hollings	Reid
Coats	Hutchison	Riegle
Cochran	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Roth
Coverdell	Kassebaum	Sasser
Craig	Kempthorne	Shelby
D'Amato	Kennedy	Simpson
Danforth	Kerrey	Smith
Daschle	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Lautenberg	Thurmond
Domenici	Leahy	Wallop
Dorgan	Lieberman	Warner
Exon	Lott	Wofford
Faircloth	Mack	

NAYS—23

Biden	Bumpers	Feingold
Bingaman	Campbell	Feinstein
Boren	DeConcini	Harkin
Boxer	Durenberger	Hatfield
Levin	Mitchell	Sarbanes
Lugar	Moseley-Braun	Simon
Metzenbaum	Murray	Wellstone
Mikulski	Pell	

So the amendment (No. 703) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I just want to briefly say that I voted for the last amendment, the Helms amendment.

I would say to my good friend—I see he is still on the floor—I was not terribly enthusiastic about the amendment or some of the language in it. But I would say to my colleagues, to have rejected the amendment and say that we do not care about these issues would have been a far greater error, in my view.

There is a serious situation in Nicaragua. It deserves our collective attention. There is a serious problem with terrorism. The Senator from North Carolina is correct in identifying it.

My hope is that we can come up with some language here that will allow, at some point, for some aid to go forward, with the clear understanding that these issues need to be addressed.

So I voted for the Helms amendment. I think it was important that we send that message.

I am also hopeful that, at the appropriate time, at a different place, we can have some language that reflects, I think, a better way to proceed on a very legitimate issue.

But I did not want the moment to pass without expressing those views, Mr. President.

UNANIMOUS CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, we are ready to move along now.

I have a unanimous consent agreement on two committee amendments that have been agreed to. Thereupon, we are going to hopefully recognize the distinguished Senator from Arizona—he has an amendment that we will accept—and then move to the amendment of the Senator from Nevada.

Mr. President, I ask unanimous consent that the two committee amendments be adopted en bloc: One on page 8, line 16; and one on page 72, line 25, through line 10 on page 73.

Mr. DOMENICI. We concur, Mr. President.

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

Excepted committee amendments on page 8, line 16, page 72, line 25 through line 10 on page 73 were agreed to.

AMENDMENT NO. 704

(Purpose: Concerning the removal of Russian troops from the independent Baltic States of Estonia, Latvia, and Lithuania)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. D'AMATO, Ms. MIKULSKI, Mr. GLENN, Mr. MCCAIN, Mr. DASCHLE, Mr. WOFFORD, Mr. SARBANES, Mr. RIEGLE, Mr. MOYNIHAN, Mr. FEINGOLD, Mr. BYRD, and Mr. DODD, proposes an amendment numbered 704.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . POLICY ON THE REMOVAL OF RUSSIAN ARMED FORCES FROM THE BALTIC STATES.

(a) FINDINGS.—The Congress finds that—

(1) the armed forces of the former Soviet Union, currently under control of the Russian Federation, continue to be deployed on the territory of the sovereign and independent Baltic States of Estonia, Latvia, and Lithuania against the wishes of the Baltic peoples and their governments;

(2) the stationing of military forces on the territory of another sovereign state against the will of that state is contrary to international law;

(3) the presence of Russian military forces in the Baltic States may present a destabilizing effect on the governments of these states;

(4) the governments of Estonia, Latvia, and Lithuania have demanded that the Russian Federation remove such forces from their territories;

(5) Article 15 of the July 1992 Helsinki Summit Declaration of the Conference on Security and Cooperation in Europe specifically calls for the conclusion, without delay, of appropriate bilateral agreements, including timetables, for the "early, orderly and complete withdrawal of such foreign troops from the territories of the Baltic States";

(6) the United States is aware of the difficulties facing the Russian Federation in resettling Russian soldiers and their families in Russia, and that the lack of housing is a factor in the expeditious removal of Russian troops;

(7) the United States is committed to providing assistance to the Russian Federation for construction of housing and job retraining for returning troops in an attempt to help alleviate this burden; and

(8) the United States is encouraged by the progress achieved thus far in removal of such troops, and welcomes the agreement reached between the Russian Federation and Lithuania establishing the August 1993 deadline for troop removal.

(b) POLICY.—The Congress calls upon the Government of the Russian Federation to continue to remove its troops from the independent Baltic States of Estonia, Latvia, and Lithuania through a firm, expeditious, and conscientiously observed schedule.

Mr. DECONCINI. Mr. President, I am going to take the liberty of reading one paragraph of the amendment before us. It is the last paragraph, entitled "Policy."

The Congress calls upon the Government of the Russian Federation to continue to remove its troops from the independent Baltic States of Estonia, Latvia, and Lithuania through a firm, expeditious, and conscientiously observed schedule.

Mr. President, despite considerable progress of withdrawal efforts, approximately 30,000 Russian troops remain on the territory of the independent Baltic States of Estonia, Latvia, and Lithuania. These troops, a vestige of the Soviet era, are now under the command of the Russia Federation.

The Baltic States want these troops out, and both the CSCE—The Commission on Security and Cooperation in Europe—and the United Nations have called for the removal of all foreign troops from the Baltic States. It is high time that all of these troops and their equipment be removed.

The Russian Government and the Governments of the independent Baltic States have been holding negotiations on a variety of subjects, including the troop withdrawals. There are an estimated 6,000 troops in Estonia and another 19,000 in Latvia. Moscow and Vilnius had reached agreement on removing troops from Lithuania by August 1993. Approximately 7,500 troops are currently deployed in Lithuania. The latest word from the Russian regional commander is that the withdrawal from Lithuania can be completed no earlier than August 1994—a year later than agreed.

The continued presence of Russian troops in Latvia, Lithuania, and Estonia is a violation of the sovereignty of these States. It also posses a threat to stability in the region. Unsanctioned flights by Russian Air Force planes continue to violate the airspace of these countries, for example.

I understand the difficulty that the Russian Government is experiencing in providing quarters for returning soldiers. It is estimated that adequate quarters are lacking in Russia for 120,000 officers and families removed from Germany, Poland, and the Baltic States.

To help address this problem, at the Vancouver summit, the United States made a commitment to provide $6 million for construction of housing and job retraining for returning troops. A request for additional funds is currently pending.

The amendment I offer today calls upon the Government of the Russian Federation to continue to remove its troops from all three Baltic nations through a firm, expeditious, and conscientiously observed schedule.

The Baltic States will not be truly free until the last Russian soldier has left their territory.

I urge my colleagues to support this amendment as a demonstration of our continued concern over this important issue. Its timely adoption will send a signal to Moscow that it is high time that it get its troops out of the Baltics once and for all.

This is cosponsored by the Senator from New York, Senator D'AMATO, the Senator from Maryland, Senator MIKULSKI, the Senator from Ohio, Senator GLENN, my distinguished colleague from Arizona, Senator MCCAIN, the Senator from South Dakota, Senator DASCHLE, the Senator from Pennsylvania, Senator WOFFORD, the Senator from Maryland, Senator SARBANES, the Senator from Michigan, Senator RIEGLE, and Senator MOYNIHAN of New York.

I understand it has been cleared.

The PRESIDING OFFICER. Does the Senator offer this amendment as an amendment to the committee amendment on page 71 of the bill?

Mr. DECONCINI. Yes, Mr. President, that is correct.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. MCCAIN. Mr. President, I rise in support of the amendment of my friend from Arizona. I appreciate his long involvement on this issue. I think it is an important one. We have three small countries that are making successfully the transition from nearly 50 years of Communist oppression to a democratic free enterprise system, and one that fully deserves to be free of the occupation of foreign troops on their soil.

I would like to draw a comparison. Suppose that following our war with Japan, we had continued to station, without their permission, American troops on Japanese soil, some 40 to 50 years after the conclusion of World War II. There is a comparison there, Mr. President, because as you know, Latvia, Estonia, and Lithuania, were given to Russia as a result of the infamous Stalin-Hitler Nonaggression Pact signed in 1940. Those countries were literally given to the Soviet Union. They deserve their independence.

The United States, I am proud to say, supported their independence throughout the cold war period. They have gained their independence, and the fact is they are still occupied by Russian troops.

I understand, and the amendment of Senator DECONCINI indicates that he understands the problems of housing Russian officers and men within Russia, but the fact is the United States has already given $6 million for that purpose and more is forthcoming. There is no reason for delay.

There is no reason for these three small wonderful countries—I have had the opportunity to visit two of them—to be continuously occupied by a foreign nation's troops.

I thank my colleague from Arizona for his amendment. I support it strongly and I hope the message of this Senate and this Congress is received by the Government of Russia.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. HOLLINGS. Mr. President, the amendment has been cleared on this side.

Mr. DOMENICI. We have no objection to the amendment.

Mr. HELMS. Mr. President, I support the amendment of the Senator from Arizona [Mr. DECONCINI], which reiterates United States support for the removal of Russian troops from the Baltic States. I ask unanimous consent that I be added as an original cosponsor of this amendment.

The provision reinforces current United States policy: Russian troops are expected to leave the Baltic States as expeditiously, orderly, and conscientiously as possible—and this means no excuses and no unnecessary delays.

Mr. President, I respect President Yeltsin and I commend him for the brave steps he has taken as the leader of Russia to overturn the Soviet legacy—including the imperial legacy of the Communist empire. In fact, no other than President Boris Yeltsin himself led the West into recognition of the Baltic governments previous to and following the demise of the Soviet Union in 1991.

Yet, President Yeltsin has been increasingly pushed by the elements of the Russian Parliament and his government to take a more aggressive stand—including the threat of sanction and/or military action against Estonia. The Russian military has been even more aggressive. It continues with military exercises designed to simulate the capture of the Baltic States.

Although Russian troops are scheduled to leave Lithuania by August 31 of this year, pressure is being placed on Lithuania to extend this date until late 1994. Russian negotiations with Latvia and Estonia regarding any sort of timetable for the final withdrawal of Russia troops have nearly reached a dead-end.

Mr. President, I believe this amendment is the appropriate vehicle to indicate our concerns to the Russian Government at this time. Yet, unless improvements in this and other outstanding issues between the United States and the Russian Government are resolved, it will be increasingly difficult to justify the mass flow of United States taxpayer assistance to the Russian Federation.

Mr. RIEGLE. Mr. President, this decade has ushered in a new and promising era of freedom and hope for the people in the Baltic Republics of Lithuania, Latvia, and Estonia.

In order to ensure that democracy and freedom continue to develop, our Nation and the international community must continue to support the efforts of the Baltic States to strengthen their sovereignty and independence from their powerful neighbor to the East.

During 1990, all three Baltic Republics proclaimed their independence from the Soviet Union. Shortly afterwards, the fledgling governments weathered a renewed military threat during the August 1991 coup attempt led by Soviet hard-liners. Since then, great strides have been made by these determined peoples to safeguard their sovereignty—developing democratic institutions and reforming and restructuring their economies. Still, much more needs to be accomplished. Fifty years of unjust Soviet occupation have done great damage to the economic, political, and social institutions of the Baltic States.

Today, while all of the Baltic States enjoy international recognition as independent nations, their fundamental sovereignty continues to be violated by the continuing presence of thousands of Russian troops. My colleagues and I have continued to urge that our Government and other nations press for an end to this inexcusable infringement of the national sovereignty of the Baltics that has endured even after the end of the cold war and the collapse of the Soviet Union.

I join with my colleagues today in calling upon the Russian Federation to begin an orderly, and complete withdrawal of Russian troops from the Baltics. It is my firm belief that as Russia moves to embrace democratic ideals and traditions and seeks the respect of the international community, it must also be supportive of these other newly independent States.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 704) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. 705

(Purpose: To clarify the Fair Labor Standards Act of 1938 with regard to prisoners)

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

The PRESIDING OFFICER. Is the amendment being submitted by the Senator an amendment to the committee amendment?

Mr. REID. The amendment is being submitted to the bill. The amendment is offered on behalf of Senator REID and Senator BRYAN.

The PRESIDING OFFICER. Without objection the committee amendments are set aside for purposes of considering the amendment of the Senator from Nevada.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 705.

Mr. REID. 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 87, between lines 20 and 21, insert the following new section:

SEC. 609. (a) Section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) is amended—

(1) in paragraph (1), by striking "and (4)" and inserting "(4), and (5)"; and

(2) by adding at the end thereof the following new paragraph:

"(5) The term 'employee' does not include any inmate of a penal or correctional institution of the Federal Government, District of Columbia, or a State or political subdivision of a State.".

(b) Section 13(a) of such Act (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (15) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(16) any inmate of a penal or correctional institution of the Federal Government, the District of Columbia, or a State or political subdivision of a State.".

(c) The amendments made by this section shall apply as if enacted on the date of enactment of the Fair Labor Standards Act of 1938.

Mr. DOMENICI. Will the Senator yield 30 seconds to the Senator from New Mexico?

Mr. REID. I am happy to yield to my friend from New Mexico.

Mr. DOMENICI. Mr. President, the Senators managing the bill, Senator HOLLINGS and I, are trying to go with amendments, one on the Democratic side and one on the Republican side. We are available. I ask any Republican Senators who are on our list if they could be ready in maybe one-half hour or so. We are going to take Senator REID next and then, I understand, Senator BUMPERS is going to address one of the committee amendments. Then we would be ready for Republican amendments.

If you are listed here we sure would like to have somebody come down and offer one.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, last year the Ninth Circuit Court of Appeals determined that all inmates working in correctional industries are covered by the Fair Labor Standards Act.

This is what I refer to as the infamous Hale versus Arizona decision.

The Ninth Circuit Court of Appeals is the largest circuit in all the judicial circuits of this country. It includes the

30 million people of the State of California, the people of the State of Nevada—anyway it is a large circuit and has a tremendous impact.

There are many implications associated with this decision but one of those is that prisoners are entitled to be paid minimum wage when they are working in a prison.

What are some of the things that prisoners do? As we know, they cook inmate meals, they launder inmate clothing, they repair equipment around the prison, they perform clerical work, maintain the grounds and buildings, and do other day-to-day functions of the operation. That is principally what they do. There are other things—we will talk about those—but that is the main thing that the Hale versus Arizona decision said prisoners must be paid for.

In addition to minimum wage, the creation of employee status for inmates would open the door to unemployment compensation for prisoners, workers compensation for prisoners, vacation time for prisoners, and maybe even overtime pay for prisoners.

The good news is that in the ninth circuit, as all the circuits that we have, after a panel of judges arrives at a decision, the attorneys involved, or an attorney involved, can ask for a hearing in bank, causing all the judges to sit and listen to everything all over again. Rarely does one of the circuits allow a hearing to go forward in bank, but in this instance because of the implications of this decision they did hold a hearing in bank, and they overruled the Hale versus Arizona decision.

The problem, though, Mr. President—and we will talk about that in a little bit—the problem is even though the ninth circuit decision was overruled—and that affects the State of Nevada where I live—this does not, though, prevent other courts from reaching opposite conclusions, which they have done.

That is why I have offered this amendment today to exempt prisoners from coverage under FLSA, to make it clear to the courts that they, prisoners, are not covered, that prisoners are not entitled to vacation, they are not entitled to minimum wage, they are not entitled to workmen's compensation and on and on. This amendment is the same as the bill I introduced with Senators BRYAN, DORGAN, and COHEN, S. 1115.

I regret that this amendment is necessary. I regret that the legislation is necessary, but at this time the Federal courts are in conflict. We have State governments already staggering from budget deficits. They are concerned, as rightfully they should be, that they may owe millions of dollars to prisoners not only in back pay, but prospectively, that they will either not be able to afford, or they will owe additional millions and millions of dollars. And the sums are significant. We are talking about large, large amounts of money.

As I will indicate in a little while, the General Accounting Office did a study on this issue, and at the State level. For example, Arizona officials noted that their industries paid about $614,000 in inmate wages for the year ending June 30, 1992, as compared with almost $4 million that they would have paid for the same number of hours at minimum wage.

The figures are staggering. The General Accounting Office did not look at all 50 States. They looked at the Federal Bureau of Prisons. They looked at the States of Florida, Arizona and Nevada, and came to the same general amounts; maybe four times more would have to be paid with minimum wage. It would, in effect, cause significant hardship to the States, in addition to all the other contingent liabilities that would ensue.

If this Hale versus Arizona-type thinking goes forward, that is that the Fair Labor Standards Act applies, we have prisoners who will lose their job training, they will lose the opportunity to be productive during incarceration, they will lose the incentive to reform themselves and return to society, because State governments will not be able to afford to pay them to work. It will create idleness, because States simply will not have prisoners do much of anything.

The Fair Labor Standards Act was passed in 1938 and was enacted at the time to be a progressive measure to ensure all able-bodied men and women a fair day's pay for a fair day's work. This act, though, had a humanitarian purpose, Mr. President: To provide a minimum standard of living necessary for health, efficiency and the well-being of workers.

Keep in mind that a prisoner gets a pretty good deal: Food, lodging, not only television, but cable television, their clothes laundered, exercise rooms are now mandatory—they get a pretty good deal. And now we are going to be asked to provide minimum wage for them, we are going to be asked to provide vacation time, workmen's compensation. It is really outrageous.

The goals of the act in regulating nonlabor workers are separable and distinguishable. Prisoners do not earn wages in order to pay their room and board. We already established that. The State has complete control over them. The State has a responsibility for the living conditions of these prisoners. The taxpayers pay for their cells, food, and we have already talked about their entertainment. So should taxpayers also pay minimum wage and overtime to prisoners while they are having their rooms paid for, cable TV paid for and other things?

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. REID. I will be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have not heard the full presentation, but I have had the opportunity to talk with the Senator from Nevada. The point that he makes has a great deal of merit. On the other hand, we have heard from a variety of small businesses that say if they do not pay the minimum wage and other small businesses are in competition with that, that they are at a disadvantage.

I think the point is well taken. I had indicated to the Senator that I had thought the administration was going to be considering minimum wage legislation, and that we ought to have a hearing that incorporates the results of the hearing and the desires of both the Secretary of Labor and the Senator from Nevada.

I hope that if it is the desire of the Senator to go ahead, that the amendment be accepted. I have not had the opportunity to inquire—as a matter of fact, I am meeting with the Secretary of Labor at 3:15 this afternoon. If that amendment is accepted, I would work with him on the way to the conference, during the conference, or subsequently, to try and address the issues.

There is a great deal of merit to what he said. I do not dispute it. There are other matters I think ought to be addressed in ultimate resolution of this issue. I do not really come down on one side or the other. I appreciate the points which are taken. I just wanted to indicate that if he can withhold the amendment, we can both write to the Secretary of Labor, inquire of his position, and have a hearing. But if he wants to go ahead, I hope the amendment would be accepted and we will try to work with him in the meantime prior to the conference and during the conference. I did want to express that viewpoint to the Senator.

Mr. REID. I would like to say to my friend from Massachusetts, I have great respect for the committee system we have in the Senate. I recognize that the committee, of which the Senator from Massachusetts is chairman, has jurisdiction over this issue. I recognize that there should be some work done on this matter.

I submit to my friend from Massachusetts that if, in fact, I decide not to move forward with this matter, I will ask—and I certainly do not want to in any way, because the Senator's schedule is difficult—but I hope we could have a hearing in the first part of September when we get back. This is something I feel very strongly about. It is something I feel the American people feel strongly about.

Regarding the issue relative to small business, the General Accounting Office has done good work on that. I have done some work on that that is extensive. I think we can resolve any of the problems of small business.

Of course, as the Senator from Massachusetts knows, there are other bills coming through here. I want to be as cooperative as I can. I am happy to have this colloquy with the chairman of the committee, because we have had some difficulty having a hearing arranged.

Mr. KENNEDY. I will mention this to the Secretary of Labor in the next 5 minutes, that this is a matter that is on the floor. I give you the assurance that we will have the hearing in September.

As I say, I think there will be vehicles to address this issue. I think there are a wide range of different merits to the Senator's case. I do not question that. I think there are some questions on the other side, but I will be delighted to work with it. I think the Senator has been pursuing this issue for a number of months.

I think I understand his frustration at the time we represented at the earlier hearing that it had been intended by the administration to have some increase in the minimum wage and some allowance on the EITC. The administration has decided to go with the EITC. We have given assurance to Senator WELLSTONE that we would have a hearing on minimum wage.

Irrespective of a hearing on minimum wage, I will be glad to give assurance to the Senator that we will have a hearing in September. In the meantime, I will join the Senator in a letter to the Secretary, not that that will be guiding, but at least we will have the best judgment of the Secretary of Labor on this issue.

Mr. REID. I will say also to the manager of the bill, the Chairman of the Appropriations Subcommittee, and to the chairman of the Education and Labor Committee, I have no great desire to vote—as we all know, this would win; we would agree to accept it. I have no desire of having a victory here and having it knocked out in conference, where people in conference do not fully understand it. That is not what I want to accomplish.

What I want to accomplish is, I want to change the law so the State of Nevada and other States do not have to pay prisoners minimum wages. I believe the way to accomplish that is to let the committee of jurisdiction hold hearings, send the bill over to the House, and let them do the same.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 705) was withdrawn.

Mr. KENNEDY. Mr. President, I appreciate the Senator's cooperation.

I will certainly work very closely with him. I am grateful for the way he has approached this problem, and I think all people in his State ought to be assured that we will get some resolution of this issue or I am sure that the Senator will be back.

Quite frankly, I am confident that he does have the votes to gain support for it. So they should have a very clear understanding that the Senator is making important progress on this matter of concern.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the committee amendment on page 71?

Mr. HOLLINGS. We want to withhold the adoption of that particular committee amendment, Mr. President, and momentarily the distinguished Senator from Arkansas [Mr. PRYOR] has an amendment. I think he is right outside the door.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. 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. PRYOR. Mr. President, it is my understanding at this time there is a pending committee amendment. I ask unanimous consent that the amendment be set aside while this amendment, which I will send to the desk shortly, is considered.

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

Mr. PRYOR. Mr. President, it is my understanding this amendment is going to be accepted and momentarily I will send it to the desk.

Before I do that, Mr. President, I thank the respective managers this afternoon for the acceptance of this amendment because I think it is an amendment which speaks to defense conversion in tones and also in terms we will all understand.

This amendment is going to permit, at long last, the Economic Development Administration of the Department of Commerce to make economic development grants earlier to communities losing military bases so that these particular bases can be put back to work sooner by creating private sector jobs and income for those particular communities that are affected.

Mr. President, one of the primary Federal assistance programs for economically distressed communities is the title IX Sudden and Severe Economic Dislocation Program of EDA. This program provides economic development grants to those communities for business development, technical assistance, revolving loan funds, technology development, and infrastructure projects such as sewers and roads.

Congress provided $50 million to the EDA in 1991 and $80 million last year specifically for the purpose of making these grants to communities adversely impacted by military base closures or defense industry cutbacks. These appropriations came from recommendations made by two previous Democratic Defense Conversion Task Forces, including one that I had the honor of chairing last year.

This year, during a briefing on economic redevelopment in defense-impacted communities, the task force learned that the EDA is prohibited from making grants for economic development projects on closing military bases until the community hosting the base has clear title to the base property. We found this to be a situation that must be corrected. This means that a community is forced to stand on the sidelines, watching its economic vitality seep away as the base slowly closes down.

The community is prevented from beginning vital redevelopment efforts that would enable it to quickly reuse the base, once transferred, to replace the jobs and income lost in the closure. This delay occurs even though the closures are known about 2 or 3 years in advance of occurring.

It is important to note that although the Base Closure and Realignment Commission has slated 71 major installations for closure, only 8 have closed their doors. One of those eight is Eaker Air Force Base in the small Mississippi Delta town of Blytheville, AR, which shut down on December 15 last year. Eaker was an old SAC base that housed B-52's during the cold war.

Although the military planes are gone, the hangars and other vital aviation equipment still remain on base. These hangars would be perfect for housing civilian aircraft, but they need to be refurbished and modified to meet civilian needs.

The bad news is that the local authorities in Blytheville desperately need EDA grants to implement these changes, but they have been forced to wait for months and even years until the military transfers the property. This unnecessary delay has severely hindered Blytheville's abilities to market their assets to business.

My amendment will correct this unfortunate situation by giving the Economic Development Administration the authority to make grants for projects on closing bases even if the community does not yet have title to the base property. Because environmental cleanup and other factors make exact closure dates difficult to predict, the amendment permits the EDA to consult with the Department of Defense so that it can make the best decision about when to make grants in these situations.

The EDA has been widely criticized for its slow response time to needy communities. This amendment will help the EDA be more proactive and truly helpful to those communities which faithfully hosted military bases

throughout the cold war. These communities clearly deserve nothing less. I urge the adoption of the amendment.

AMENDMENT NO. 706

Mr. PRYOR. Mr. President, on behalf of myself and also Senator BOXER, Senator WOFFORD, Senator HOLLINGS, Senator BINGAMAN, Senator PELL, and Senator DOMENICI, I do send the amendment to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mrs. BOXER, Mr. WOFFORD, Mr. HOLLINGS, Mr. BINGAMAN, Mr. PELL, and Mr. DOMENICI, proposes an amendment numbered 706.

Mr. PRYOR. 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 49, line 22 after the word "expended" insert the following: "*Provided*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when, in the option of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That, the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment."

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

Mr. PRYOR. I will be glad to.

Mr. DOMENICI. First, might I ask, will the Senator put me on the amendment as a cosponsor?

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senator from New Mexico [Mr. DOMENICI] be added as an original cosponsor.

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

Mr. DOMENICI. Mr. President, as I read the amendment—and I think it is a very good law and we should adopt this—it seems to me that the Senator is not expanding what this money can be used for but, rather, saying that it can be used at an earlier point in time, that is, you do not have to have title yet or you do not have to have a long-term lease. It would still be available for the resources that the Senator provides if, in fact, the facility you are improving or whatever else you are doing is part of an economic recovery plan resulting from defense closures or the like.

Mr. PRYOR. I am very glad the Senator from New Mexico has picked up on this point. The Senator is exactly right in his interpretation. We are not expanding powers, basically. We are just saying that the communities do not have to await until title has vested in those communities. They do not have to wait until the base has actually been closed and basically been put in mothballs.

Mr. DOMENICI. I compliment the Senator.

Mr. PRYOR. I thank the Senator for his observation and question.

Mr. DOMENICI. Let me say, Mr. President, one of the problems of all this conversion is that it takes so long in some cases. If you have to clean up the base or the facility because of chemical spills or the like, you are waiting around really for years while it is done and everybody sits around in frustration. The Senator is suggesting that you do not have to clear up title and be ready in all respects to get EDA grants, if I understand.

Mr. PRYOR. The Senator is absolutely correct.

Mr. DOMENICI. I thank the Senator.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Arkansas. He has been leading the thought in Congress relative to reconversion problems. He has been working on it for the past several years.

I did not want it to hit me but it has. The Charleston Naval Base, the Charleston Navy Yard, both have been listed by the Black Commission and approved by the President, and it is now up to the Congress itself. If that is to occur, and pending the occurrence one way or the other, within the next few days.

I was on a visit only last Friday—incidentally, that is why I had to miss some good votes. But I did some better work. I was with the Deputy Secretary of Defense, Dr. William Perry, and we went over all of the facilities looking at the opportunities and looking at the needs for adjustment.

I got right to the point being made by my ranking colleague. I said to Dr. Perry, "Look, I don't want title to any of this property right now. There are 33 dump sites that have been located"—this is a naval facility that has been there just about 100 years. You can imagine without any Environmental Protection Agency or in anything else what we used to do in the military. We would bury it here, there, or yonder. I said it is just like if you gave me a yacht, I could not afford the gasoline to run it. If you gave me one, I could not afford to clean it up in order to use it.

Like the Panama Canal, I want a treaty, a lease. You keep the title and let me have 99 years so I could put people back to work. This is exactly what the amendment of the Senator from Arkansas addressed, that particular problem.

The other problem, specifically the Government cannot give property save and excepting for recreation and health, and several other educational purposes but not for jobs. So we are going to have to amend the basic law there, even if we have a clear piece of property, and if A, B, or C corporation says we can take over that building and put everybody to work in it, we cannot give them title to it right now. That is for jobs. I can put on a ping-pong tournament in there, or something else for recreation, education, and health. But I cannot do it for jobs. We will have to change the basic law there. This of course changes the basic policy responding to the need never contemplated at the time we put in economic development assistance in our National Government.

So I thank the distinguished Senator from Arkansas for his leadership on this score. We are ready to accept the amendment.

Mr. PRYOR. Mr. President, if I could ask that Senator RIEGLE of Michigan be added as an original cosponsor, and also to once again thank my friend and colleagues, Senator HOLLINGS and Senator DOMENICI, who manages this afternoon this legislation; and for their willingness and their cooperation along with their staffs. I thank them very much, Mr. President.

Mrs. BOXER. Mr. President, I have been very honored this year to have served as a member of the Senate Democratic Task Force on Defense Reinvestment chaired by Senator PRYOR. Under his able leadership, the task force has produced a set of recommendations that will help communities make the transition to a civilian economy in the face of massive defense downsizing. As you know, my own State of California has been rocked by both reductions in major defense programs and successive waves of base closures.

The amendment before us is an important step toward implementing this critical set of proposals. It will allow the Economic Development Administration to make grants for economic development projects on closing bases before communities actually get title to the land. This will shorten the period of economic dislocation in base closure communities and expedite economic redevelopment.

Many of my efforts this year have been aimed at easing the defense transition problem in my State. I have introduced my own bill, the Economic Conversion Clearinghouse Act—S. 850—with 14 cosponsors, which has been adopted as one of the task force recommendations. This bill would establish a one-stop shop information clearinghouse in the Department of Commerce, to help defense impacted workers, communities, and firms access the information they need to cope with the defense downsizing. It has been endorsed by more than 40 business, labor, and community organizations, along

with several local government bodies in my State.

I believe that, since coming to office, President Clinton has taken some very bold steps—far more than any previous President—in coming up with a far-sighted and innovative plan for economic conversion. The task force recommendations aim to make the Federal agencies that provide economic assistance work better and be more accessible to our citizens in need.

Most important, they would empower our communities, giving them more of a direct voice in the planning processes and decisions that affect them the most. My hope now is that we can work on a bipartisan basis to implement these crucial recommendations in this year's session. Our people are hurting now, and they need whatever help they can get, and as soon as possible.

During the 1960's and 1970's the Economic Development Agency helped numerous communities adjust to the closing of military installations around the Nation. Between 1975–1980, the EDA gave out approximately $110 million in assistance, in current dollar values, to 31 successful base reuse efforts.

The EDA's role was greatly diminished during the Reagan and Bush administrations, which tried unsuccessfully to zero out the EDA's budget year after year. Only congressional action kept the EDA alive. Yet, by 1990, the EDA's budget for helping severely dislocated communities was only $12 million.

Recognizing the importance of the EDA to its conversion program, the Clinton administration plans to restore the EDA's budget to its past levels. In addition, it is making efforts to streamline the EDA's grant application process, making it easier for communities to obtain the assistance they need in a timely manner.

The proposed amendment, however, deals with a problem that cannot be addressed administratively. Current statute prevents the EDA from making grants to communities until they have clear title to the base property. By allowing the EDA discretion to make early grants to communities after base closures are announced, communities will be able to begin their planning and start implementation of their plans much sooner than is now possible. Coming from a State which stands to lose over 33,000 jobs from the last round of base closures alone, I cannot stress how important this measure is to me and my constituents.

I would like to thank Senator PRYOR for his consistent and strong leadership in the task force and, in particular, for taking the lead in introducing this amendment. I have very much enjoyed working with him and my colleagues on this historically important project. I look forward to working with them to promote a smooth transition to a healthy and competitive economy in the years ahead.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 706) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

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

COMMITTEE AMENDMENT, AT PAGE 83, LINES 12–16

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we move to the committee amendment appearing at page 83, lines 12 through 16.

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

Mr. BUMPERS. Mr. President, I hardly know where to begin on this debate but it deals with the organization we call the National Endowment for Democracy. The National Endowment for Democracy has been with us since 1984. It is a relic of the cold war. Let me repeat that. It is a relic of the cold war.

I have to confess to my colleagues, I never did like it. The chairman of our committee did not like it. The chairman and I tried time and time again to torpedo this thing. I did not even like it when the cold war was raging, and I like it a lot less now.

The idea was that we were going to give all this money to people who would go into all of these countries that were threatened with communism, we would teach them the joys of the private enterprise system and democracy, and we would thereby thwart the expansionist policies of the Soviet Union. If you want to agree with that, that is fine. I did not like it because I did not think it was enough money to do much good anyway.

No. 2, I felt that some of these people would be meddling in the internal affairs of other nations, which they indeed got caught doing time and time again.

I did not like it because we have the Agency for International Development, the U.S. Information Agency, that spends hundreds of millions of dollars to do the same thing.

If somebody offers an amendment here to do away with the BIB, the Board for International Broadcasting, I am going to vote for that.

Here is living proof that all of the wasteful spending in the U.S. Congress is not on entitlements. We have heard those sermonettes time and time again about how you will never get the deficit under control unless you get entitlements under control. Entitlements is a buzzword. It is a buzzword for Social Security, it is a buzzword for welfare, it is a buzzword for Medicaid. It is a buzzword for Medicare. It is a buzzword for anything that helps people who are having a tough time making ends meet. People will never say: You will never get the budget deficit under control until you get AFDC payments under control. They never say: You will never get the budget deficit under control until you get Medicaid under control, which is health care for the poorest of the poor. They will never say—well, occasionally, they say: Let us cut Medicare. But they never want to cut the recipients; it is always the providers, the hospitals and doctors.

I am not here to make those arguments. I am here to say simply that people in this body continually hide behind that buzzword "entitlement" by saying: How dare you raise all these taxes without getting entitlements under control?

There is one thing Hillary Clinton says, and that is that you are not ever going to get the deficit under control until you get health care costs under control, and she is dead right. To all of my friends who like to hide behind that word "entitlement," here is an opportunity to come out of the closet. Here is an opportunity to say that it is not just entitlements that we are spending money on that we should not be spending money on; here is a program which has just gone out of sight in a small way in appropriations.

Mr. President, look at this. This thing was funded for the first time in 1984. We appropriated $18 million. That year, Senator HOLLINGS and I strove mightily to kill this program, without success. The next year we put $18.5 million in it. We went after it again, without any success. There are some very, very fine people on the Board of the National Endowment. There are a lot of people who work in this program that do a fine job. We are not going after the people; we are going after the money and the principle.

In 1986, I guess Senator HOLLINGS and I made it so hot we cut it down a little bit. That was the first full year Gorbachev was in power, and people thought maybe the Soviets were not quite as big a threat. So we cut their funding down to $17.2 million. The next year Gorbachev looked so good we cut it to $15 million. What is really interesting is that once the Soviet Union collapsed, why, the appropriations have gone out of sight. There it is. In 1991, we went from $17 million to $25 million. In 1992, last year, $27.5 million. This year, $30 million. And there is $35 million in this bill.

How many programs, Mr. President, does any Member of this body know about that has gone up from $17 million in 1990 to twice that amount—a 100-percent increase—in 1994?

The way we spend money around here, if you say it fast, $35 million is just nothing. If you sit as chairman of the Agricultural Appropriations Subcommittee, as I do, or this subcommittee that has this, on which Senator HOLLINGS is the chairman, and you are trying to find $1 million here for the Senator from Florida to start a project in Florida, or another $1 million for some research project at the University of Arizona, and you are trying to do some things that help people, that increase the United States' competitiveness, that put people to work, $35 million is a lot of money.

Do you know what $35 million will do in the 7(a) loan program of small business? It will generate about $3.5 billion in 7(a) loans. Do you know how many jobs you create with every $1 billion you loan? About 12,000 jobs.

So I ask you, does going over to Poland and telling the Poles the wonders of the free enterprise system and democracy, where they are already involved in the free enterprise system and democracy make sense? What are we doing in Poland, spending money to teach them about politics? They have a much older culture, politically and esthetically, than we have. But now here comes one of the most interesting parts of this whole program, Mr. President.

Turning to this chart right here, see that piece of pie and how it is divided up. What is going to happen with the $35 million we are appropriating? What is NDI that gets 9.8 percent? That is the National Democratic Institute. Do you know what that is? That is a fancy name for the Democratic Party. That is right—the Democratic Party, which used about $700,000 of other Federal money last year to conduct the convention in New York. They get 9.8 percent.

NRI. People say that must be some prestigious organization out teaching the free enterprise system. That, Mr. President, is the Republican Party, which spent almost $500,000 of their 10.7 percent of NED's funds. And, as a Democrat, I want you to know I resent the Republicans getting 10.7 percent and us just getting 9.8 percent. Well, the Republicans spent almost $500,000 on their convention down in Houston.

CIPE—who ever heard of CIPE? Do you know who that is? That is the U.S. Chamber of Commerce. That is the Committee for International Private Enterprise. That is run by the Chamber of Commerce of the United States. They got 10.6 percent; 10.6 percent of $35 million. By my calculation, that is going to be well over $3.5 million this year. What are we doing giving money to the chamber of commerce?

Here is one: FTUI. Do you know what that one is? That is the AFL–CIO. That is the Free Trade Union Institute, which is a little nom de plume for the AFL–CIO.

Mr. President, at this stage of my presentation, let me present this question to my colleagues: What do you think is going to happen when the chamber of commerce and the AFL–CIO go to Romania or Poland or Hungary or, yes, even France and Britain and New Zealand, who have democracies almost as old as ours? What are we doing in those areas?

But back to the point, can you picture the chamber of commerce and the AFL–CIO sitting down around the table with political leaders in emerging countries and agreeing on what their economy ought to be? Would you not like to hear them discuss the merits or lack of merits of the striker replacement bill?

I will tell you what. If a bunch of Poles did not slit their wrists after listening to that presentation—here, they do not agree on anything. The Chamber of Commerce and the AFL–CIO agree on virtually nothing except they are happy to be Americans.

I do not know why the Chamber of Commerce has not put in a squawk about just getting 10.6 percent and the trade union is getting 40 percent.

Mr. President, they do not all get the same amount of money every year, but this has been the average of what they got between 1984 and 1990. Here is how much they got in 1991 and 1992. This is what we call the core grantees. And then you see that figure down there that says discretionary, a good big portion of that goes for first-class airfare for everybody else.

Now, Mr. President, I could talk for a long time about this, but I am not going to because I have made the points that are worth making. Someone is probably going to come in here this afternoon and say, yes, but look what they did here and look what they did there.

I want you to pay attention to all of those magnificent replies for the National Endowment for Democracy and ask you if you think it is worth the couple of hundred million we put into it in the past 10 years. This is like the wool and mohair program; it has outlived its usefulness if it ever indeed had a usefulness.

The National Endowment for Democracy spent money to undermine President Arias of Costa Rica when he was the only sane voice, head of the only democratic country in Central America, and was trying his best to help end the war in El Salvador and trying to help with the war in Nicaragua. And the National Endowment for Democracy is down there trying to undermine his efforts.

Mr. President, let me just give you an illustration of how this thing can work and has worked:

In 1989, in Korea, the National Endowment made a grant to help the Federation of Korean Trade Unions to improve its influence on government policy in Korea.

No. 1, that is meddling in the internal affairs of another country, any way you slice it. What are we doing providing money to the Federation of Korean Trade Unions to help them improve their influence on the central government? I submit to you that if Korea gave the AFL–CIO money in this country for the express purpose of trying to pass S. 55, the striker replacement bill, there would be a revolution in this country in the business community about Korea meddling in the internal affairs of this country.

In the mid-1980's, the National Endowment used money in Panama to support groups that were affiliated with a candidate for President named Barletta, Nicholas Ardito Barletta.

You think about spending money to help someone run for President out of the military, and in Panama, when every day the President was saying we want Panama to be a democracy and we are going to be neutral. And there we are funneling money to the only guy the military backed down there. He was a military man himself.

Our Ambassador to Panama found out about it and sent a cable to Washington, "Embassy requests this hairbrained project be abandoned before it hits the fan."

As I told you a moment ago, we spent the National Endowment moneys in Great Britain, New Zealand, and France.

In China, we continued to fund China Perspective for 2 years after that publication was in serious financial trouble. And the National Endowment knew it was in trouble because its own auditors, in 1984, had discovered that it was in trouble. But they granted the China Perspective $280,000 in three grants, in 1985 and 1986. In 1986 the National Endowment auditor found that the problems had not been eliminated, and despite their failure to eliminate the problem the National Endowment granted China Perspective another $482,000 from 1987 to 1989. In 1992 China Perspective finally had an independent financial audit, which found that it had continued right up to that time commingling funds but not before the National Endowment gave them $280,000 more.

Mr. President, I am not going to catalog a long list of incompetence in the use of their money. I have a list here that is just unbelievable.

The Washington Post said in 1985, $830,000 was spent on a rightwing French students' organization. That is right, financing a rightwing French students' organization, to the tune of $830,000.

In December of 1985, the London Financial Times said the National Endowment had given $49,000 to the British International Labor Organization.

Incidentally, I mentioned Oscar Arias a while ago. They gave his opponents $433,000 in 1989. He was one of the few sensible people in all of Latin America.

In December 4, 1989, the New York Times said that the National Endowment had funneled $1.4 million secretly through an overseas branch of the Free Trade Union Institute to two separate rightwing groups in France that opposed the policies of Francois Mitterrand.

Would that not have been wonderful if Bill Clinton was going to Tokyo to meet with Francois Mitterrand right after he found out that the National Endowment put $1.4 million into an organization to oppose him?

December 18, 1989, the Nation, a little magazine publication, said the National Endowment provided funds through the International Democrat Union. That is a collection of conservative political parties from around the world. An affiliate of this organization called the Caribbean Democrat Union got more than $800,000 from the National Endowment. Based in Kingston, Jamaica, CDU conducts monthly seminars, including one concerning Communist infiltration in the Caribbean. And they use some of the money to send their officers to international conferences in London, Vienna and Tokyo. And I am sure they all had first-class tickets.

This list goes on and on, Mr. President.

One of the things that is particularly troubling is the lack of fiscal controls of this organization. Even if I thought the National Endowment for Democracy was a good idea, which I certainly do not, the inspector general has given us plenty of ammo about how loose their fiscal controls are.

Mr. President, to end where I began, I want you to look at this. This is what the Agency for International Development, which we commonly refer to as AID around here—here is how much money they spent on promoting democracy and governance activities in 1992. Look at that: $55 million in Africa; $15 million in Asia; $30 million in Europe—$225 million to do exactly what the National Endowment for Democracy is supposed to do. In 1992, the Agency for International Development will spend $71 million more, $296 million to help other countries.

What do you think our foreign aid bill is for? It is to help other countries. And oftentimes it is designed to teach them the free enterprise system. There are people all over Russia right now, some on their own, some spending their own money, a lot of others financed by AID, to try to teach the Russians how the free enterprise system works and what democracy is all about.

And here we have this program which is just one junket after another, always meddling in the internal affairs of another country and giving the lion's share of the money to two organizations that do not agree on anything. Now you tell me what kind of synergy there is there that is going to benefit any nation on Earth.

Mr. President, it is time to face reality—time to face reality on the deficit, time to face reality on the fact that $35 million is not peanuts, time to face reality on the basis that if we are going to teach democracies, we have two programs already where we are spending hundreds of millions of dollars to do it and we do not need this one.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Arizona, [Mr. McCAIN].

Mr. McCAIN. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Arizona.

Mr. President, right where the distinguished Senator from Arizona stands stood the very famous minority leader when I came here almost 27 years ago. And we only had two of us Democrats to preside. I got two 100-hour Golden Gavel Awards. We used to have a sensible operation in this U.S. Senate. We would vote all morning long, handle the debate, the committees would meet in the afternoon, and by 5 o'clock everybody was gone home like normal people.

I had to listen to one particular Senator allege that Lyndon Johnson was a murderer. I would preside from about 5 o'clock until 9:30 or 9:45.

But Senator Everett Dirksen, of Illinois, stood right there. I will never forget one of his many colorful and poignant observations. He said: Consistency is the hobgoblin of little minds.

Now, I join with the distinguished Senator from Arkansas, because I still do not believe in giving money to the Chamber of Commerce, and the AFL, and the national Democratic Party, and the national Republican Party. I just do not think ordinarily you ought to spend funds for it.

In the early years of this program, when I looked into it, I found all of these scandalous things that have been referred to. They would go down in the wintertime back in 1983, 1984, and 1985, and they would meet in the Bahamas and swim out on the nice sandy beaches and everything else while everybody was freezing up here. They would call it very important meetings.

The truth of the matter is, Mr. President, they did not have a mission, because they were not getting around to those countries where they were needed and were meeting and talking and brainstorming, as they call it.

And this brings to mind that in the early years of this program I joined with Senator BUMPERS in an amendment that, rather than put the money here, attempted to put in Fulbright scholarships, exchange student programs, and other things that were meaningful to the fostering of democracy the world around.

But with the fall of the Wall in 1989, they have a very dynamic mission and role. We have a different world. And what has happened is that the National Endowment for Democracy has evolved into what you would call a democracy corps. We had the Peace Corps to go around to spread peace and how to recover economically with all the volunteers. And I was in on that back in 1960 when President Kennedy, then candidate Kennedy, was campaigning.

But not to get off the track, the democracy corps has developed as a matter of necessity. They talk about new ideas. Yes, necessity is the mother of invention. And had we not this particular entity, I do not know how we would have handled the need. Because there is a very jaundiced view of political involvement on the part of the official diplomatic representation of countries.

Your Department of State cannot go out into Romania, go into Czechoslovakia, when they are trying to become a free society, with a free election, go even into Lithuania and other places right now. You need a NED.

If they want to change this organization, someday, somehow, I will go along with it. But the balance of considerations and concerns, when you have labor balancing off capital's interest and capital balancing off labor's interest, you are going to get a pretty good commonsensical solution. And similarly with respect to Republicans and Democrats.

So I am not standing here trying to change it today. I am trying to foster it and oppose the amendment of the Senator from Arkansas.

I could see how the world was changing when, at the time of the fall of the Wall, our present Ambassador to the United Nations, Madeleine Albright, and others came into my office saying: "There are some printing presses up in Ohio. We need to get those printing presses over to Czechoslovakia and Hungary, because they are trying to have free elections and they don't have a way to communicate."

They certainly did not have a newspaper. It was all controlled by the party.

If we could get some handbills out to instruct people on how to vote and where to vote and everything else, they could have a free election.

We picked up 13 discarded or used printing presses up in Ohio—I will never forget it—and got it over there to set up that election.

And then that began to change this hobgoblin's mind. But I was not going to change my mind yet. I had beaten this thing down almost, by very close votes, and I knew there had been a tremendous amount of waste.

And when this was voted down just the other day, about 5 weeks ago, I guess, on the House side, the Endowment for Democracy, I immediately checked with my staff. I said, "Call GAO." Because I had the GAO report made, I wanted GAO to get in there and stop all this waste that has been referred to in certain instances.

And the word from the General Accounting Office—the entity of our own Congress that does the auditing for us—was, "Now they have done away with these abuses and they are doing real work." And we only have to look at the record.

When the Senator said, "Poland? What in the world were they doing?" I will never forget sitting with Lech Welesa, when he came here and we had a dinner; the famous Welesa talking about NED. He said, "it was a tremendous help." And he talked about the vote for independent national broadcasting, Radio Free Europe. When asked about that, he said, "What is the world without a Sun?"

I will never forget his expression—that the Sun brought the light of freedom.

And education is to the infrastructure of a free society like a free labor movement, like free elections, like a capitalistic competitive economic system such as the one down on Main Street that we all foster. And when there is criticism here of labor, I stand up for them. In my experience, it is the free labor movement that brought freedom to Poland and is bringing it to many, many other countries. There is not any question. That is one of my concerns down in Mexico, that you do not have a free labor movement.

That is what Lester Thurow said when he was testifying before the Commerce Committee. He said, "Free trade agreements do not work. You have to have to get a Common Market approach."

The Common Market approach used in Europe means helping the less democratic countries to develop democracy. For example, Portugal and Spain, where they had an election 2 months ago, got $5.8 billion in a European investment to build the infrastructure of a free society, to provide for a free labor movement, to provide for free elections. That is what we are doing with the National Endowment for Democracy. It is working not only in the People's Republic of China, Vietnam, Cuba, and those places where there are little fledgling movements for freedom, but it sponsors the Center for Political and International Development in Egypt. You can see the terrorism and threats to government there. NED is also at work in Iraq, supporting the Free Iraq Foundation.

But more particularly, and I will highlight it and we can get thoroughly into the debate, think of the elections that President Carter has audited in Panama and Paraguay and Northern Africa.

On that particular point we have the letters from both President Carter and President Clinton on this score.

I will quote President Jimmy Carter.

The work of the National Endowment for Democracy and its affiliates in promoting civic education and the transition to free market economics and pluralist democracies has proven to be extremely cost-effective. The money spent in promoting democracy is money saved in responding to civil conflicts.

I ask unanimous consent to have printed in the RECORD a letter dated July 27 from the President of the United States in support of the $35 million included in this bill for the National Endowment for Democracy and a June 30, 1993, letter to me from Jimmy Carter.

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

THE WHITE HOUSE,
Washington, July 27, 1993.

Hon. GEORGE MITCHELL,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: I am writing to express my strong support for the $35 million in funding for the National Endowment for Democracy recommended by the Senate Appropriations Committee.

Supporting the world-wide movement toward democracy is one of the best investments we can make in our own national security. NED has been one of our most important and effective instruments for supporting democracy abroad.

Now, with new democracies and democratic movements gaining strength from the former Soviet Union to Africa to Latin America, we need to make our support for democracy an even higher priority. The $35 million appropriation now before the Senate, while short of the $50 million I requested, would at least enable us to increase our support for those who are waging democracy's fight abroad.

I hope you will convey to the Senate my strong support for the full $35 million appropriation for this important program.

Sincerely,

BILL CLINTON.

JUNE 30, 1993.

Hon. Senator ERNEST F. HOLLINGS,
Russell Senate Office Building,
Washington, DC.

To Senator Fritz Hollings:

I was dismayed to learn that the U.S. House of Representatives voted on June 22 to cut all funding of the National Endowment for Democracy. If sustained, this action will hinder the commendable efforts of the four institutes that were established with bipartisan support 10 years ago. I have worked very closely with the National Democratic Institute for International Affairs in Panama, Haiti, Dominican Republic, Zambia and Paraguay, and consider it a vital institution in assisting the peaceful expansion of democracy through the world.

The work of the National Endowment for Democracy and its affiliates in promoting civic education and the transition to free market economics and pluralist democracies has proven to be extremely cost-effective. The money spent in promoting democracy is money saved in responding to civil conflicts.

At a time when Americans can speak with one voice in support of the entitlement of all people to a democratic form of government, it would send the opposite message if Congress ended support for the very institutions that have been at the forefront of this international effort. I urge you to support the continued efforts of NED and the party institutes.

Sincerely,

JIMMY CARTER.

Mr. HOLLINGS. NED is accused of meddling in other countries.

When you hear, for example, how we are meddling in Korea—heavens above. We spent $3 billion and put 40,000 troops meddling. We just had a meddling picture with a meddling President. We all prided ourselves on the meddling. If we have to listen to how we are meddling around in Korea—it is needed there. We are trying to promote democracy and for the cost of a single airplane in the Defense Department, here, for $35 million we are moving forward in all of these particular endeavors to foster democracies, democratic movements, free elections, free information, capitalistic societies, and free labor movements.

I think it is very, very important because of the way the world has changed. I do not know of any other entity to handle this particular problem.

We will all agree the State Department cannot do these things. You cannot send the Defense Department over. You cannot send the Peace Corps over to do these things.

The National Endowment for Democracy finally found a role. It was not an old tool of the cold war. It was not worth a hoot in the cold war. They did go down in the islands and meet and eat and greet and talk to each other and brainstorm. It was waste, as far as this Senator is concerned. But now they are on target and they are working around the clock and they need a heck of a lot more money.

They have been restricted by the criticism from this Senator and the Senator from Arkansas and many, many others. But right to the point—$18 million. He asks where else did they double it? I can tell you where they have. They have gone from $4.4 billion in Justice in 10 years to $9.2 billion.

I can go down a lot of other parts of these budgets that we have here on the Appropriations Committee and tell you where they have doubled, veritably doubled—in billions—not the little $18 million to less than doubling, $35 million, the cost of an airplane—to take a wonderful little entity that is really doing the work of democracy.

It is surprising to me. I say that in a sense of amazement because I really fought this thing. I thought good gosh, I was against new programs. That is why I am against, right this minute, the voluntarism program.

The fellow for voluntarism called me from the White House the other day and said we have to get your support, what wonderful work, and everything

else of that kind. He said out there in the flood now we have already got 2,000 working in this program.

I said, "Son, there are 2 million not in your program working around the clock. You do not need a program for voluntarism in America. It is alive and it is well." I can tell you that right now. I saw it after Hurricane Hugo, from 38 different States the volunteers came to my hometown. I saw it down there after Hurricane Andrew, in Homestead, FL. You are seeing it every night, turn your TV on at 7, and you will find it one more time—voluntarism is well.

But this Democratic leadership circle, council, whatever they call themselves, had to find something to do. So the imprimatur is now if you vote against them, you are against voluntarism. I am against new programs until we get this deficit on line, trying to stop these new programs. That is why I opposed the National Endowment for Democracy all during the eighties until they walked into my office and told me they were doing some real work in Romania, Lithuania—you should not cut this short. You should listen to these folks.

Vesna Pesic, the director for the Center for Anti-War Action in Belgrade:

I want to thank you for your ongoing support of the work of the Center for Anti-War Action and for your generous financial backing of our conference on war crimes and International War Tribunal. * * * The National Endowment for Democracy not only made this important meeting and future contacts and collaboration possible, but also set a significant example for others committed to freedom and human rights to follow.

You see, this is the war that old Lyndon was talking about, the war "for the minds of men."

Now to try to spread that democracy in Romania, Luminita Petrescu says:

NED's activity is the mortar which binds together the bricks which together make up the civil society we so much need. * * * NED's support gives us the moral and material means to serve a cause dear to us all. * * * It isn't anymore a short, violent battle of arms. It is a long tenacious battle to change the mentality of a society. We shall win this struggle the day we shall be able to say truthfully that the people decided their future through their own will.

And then again, the Iraqi author Kanan Makiya, who wrote the books "Republic of Fear" and "Cruelty of Silence":

Because of what NED has done for Iraq since the gulf war, it has been possible for Iraqi writers and human rights activists to get their ideas and aspirations into Iraq.

Go right on down, particularly I note, if you please, that we just discussed Lithuania, and told the Russians, "Get your troops out." We are trying to get the truth in; troops cost billions and billions. Here is a measly little $35 million.

From the President of Lithuania:

NED played a critical role in support of Lithuania's drive to reestablish democracy and national independence.

Where have you ever heard a statement about that from AID? How much is that AID thing? That is $6.6 billion.

You hardly know that AID comes from America. I have been there where they dumped it. I have seen it on the side of the railheads where they did not pay the mordida to keep it moving and everything to get to people.

AID costs $6.6 billion. And yet some Senators pick on a modest program of $35 million, and have no idea and feel for what is going on in the world today. They really do not. I am embarrassed at some of these amendments here.

You can go to the Ukrainian Parliament. They are not free yet.

We think the democratic revolution in Ukraine is not yet finished.

I am quoting from a letter signed by the Members of the Ukrainian Parliament.

The old Communist nomenclature changed its name and called itself democratic. It is still in power and does its best against development of real democracy in Ukraine. So we are in a position that the help of the National Endowment for Democracy is still very important for Ukraine.

Elena Bonner, the widow of Andrei Sakharov:

Practically speaking, the endowment is the only grant-giving organization which focuses its activities in the post-totalitarian countries directly on supporting the work of non-governmental organizations.

I could go on and on. I want to yield to the distinguished Senator from Arizona. He was kind enough to yield to me. I can tell you here and now, it is a $35 million appropriation. It is well-deserved. It is well audited and it is, by crackey, doing a job for democracy while the billions and billions of other governmental programs are utterly in failure.

Mr. McCAIN addressed the Chair.

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

Mr. McCAIN. Mr. President, before I proceed with my remarks, I would like to ask my colleague, how much money is included in the entire appropriations bill that is before the Senate?

Mr. HOLLINGS. Twenty-three billion dollars.

Mr. McCAIN. I thank my colleague. It is interesting, as he just noted, that there are more speakers on the floor on this issue than any issue associated with this $23 billion appropriations bill, and we are arguing about $30 million for the National Endowment for Democracy.

In all candor, I think they feel this way because they believe it is an easy target.

I rise to voice my strong support for the National Endowment for Democracy and to oppose the efforts to reduce or terminate its funding.

Mr. President, I, like my colleague from South Carolina, in the early eighties, when informed of the National Endowment for Democracy, was in opposition. Rather than continue uninformed, I became educated as to what the National Endowment for Democracy was doing, has done, and can do in the future. I went from a position of opposition to one of dedicated support.

I do not support NED only because of my own expertise and talent, but I rely on the expertise and talent of others. As demonstrated in the statements my colleague from South Carolina just quoted, I have not seen a broader range of ideology united on one single issue. Support ranges from Jimmy Carter to Ronald Reagan, from Elena Bonner to the Administrator of AID. Supporters include, I might add, Oscar Arias who, according to the sponsor of this amendment, was undermined by the National Endowment for Democracy. Yet, Mr. Arias stated, and I quote:

I offer the National Endowment for Democracy and those involved in its lofty purposes all of my support and solidarity.

It is interesting that Oscar Arias who, according to the sponsor of this amendment, was undermined would be in support of NED.

Mr. President, I have often been referred to as a staunch anti-Communist. I am, and I am proud of that distinction. But my opposition to communism is not an end in itself. It is a component of my devotion to democracy. For over half a century, the United States was engaged in a global struggle with an imperialist, Communist superpower. The struggle was necessary for our own preservation. But it was also necessary to undertake the struggle in service to the values which Jefferson declared to be self-evident.

Our Nation's security would be imperfectly safeguarded absent our best efforts to promote democratic values abroad. Democratic governments rarely, rarely become international aggressors.

But beyond this important interest is another compelling reason for our support for the extension of liberty to every society on Earth. Our national identification, America's best sense of herself, is found in that devotion. In Lincoln's times and words we served "as the beacon light of liberty." At another time, we took pride in the appellation "the arsenal of democracy." At all times we have steadfastly remained the last best hope of Earth.

Mr. President, we have sacrificed our most precious resources—the lives of our young Americans—in service to this cause. We have extended a great many of our resources, vastly diminishing our national wealth, in our defense from tyranny. We have not become impoverished in these endeavors, but they have been costly.

Why now, at the moment when our half century of sacrifices have brought successes which were almost unimaginable a few short years ago, would we

risk these successes by neglecting to invest a relatively small amount of money to help ensure that countries which were once misruled by tyrants do not become so again and, by so doing, pose a new threat to our own security and an abomination to freedom lovers everywhere?

Over a decade ago, President Ronald Reagan delivered an address to the British Parliament. His stirring defense of democratic values at Westminster is remembered today as one of the great communicator's most effective addresses and one of the most impressive moments of his Presidency.

Seven years before that grotesque impediment to human liberty, the Berlin Wall, was breached by the stronger forces of human yearning, Ronald Reagan's prescience identified to a skeptical world the inevitable triumph of freedom. "Let us be shy no longer," he said. "Let us go to our strength, let us offer hope, let us tell the world that a new age is not only possible, but probable."

Those words marshaled the American people and the resources for a reinvigorated campaign to support the advance of democracy in some of the most closed societies on Earth.

A year and a half later, President Reagan inaugurated the National Endowment for Democracy, a program which has contributed substantially to the liberation of millions of oppressed peoples.

Despite the breathtaking gains made in the last few years, much important work needs to be done to consolidate those gains from Russia to Nicaragua, to help democratic institutions develop from infancy to stable adolescence in Poland and El Salvador, and to liberate the oppressed in the last few holdouts of tyranny in places like Vietnam and Cuba.

Ronald Reagan's message at Westminster remains as compelling as ever, and the need for NED as urgent as ever. It is thus not surprising that after learning that funding of NED might be challenged during debate today, President Reagan wrote a member of IRI's board, my friend, Frank Fahrenkopf, to express his strong support for freedom.

In part, Mr. President, Ronald Reagan's letter says:

> Without the strong and energetic support of NED, however, it is unlikely that these struggling democracies can prevail. And should they fail, we run the risk of reversing the great global strides that we made together. This could potentially jeopardize our own very freedom. I urge now, as I did 10 years ago, for continued support of NED to ensure that America remains that shining city on the hill.

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

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

JULY 4, 1993.

Frank J. Fahrenkopf, Jr., Esq.
Hogan & Hartson, Columbia Square, Washington, DC.

DEAR FRANK: On this 217th anniversary of our nation's independence, I am reminded that America's greatness lies not only in our success at home, but in the example of leadership that we provide the entire world. It is a testament to our nation's ideals that America's democratic political system continues to be a source of inspection and admiration throughout the globe. And it is a credit to our work together that our democratic ideals actually have begun to prevail.

Our work, however, is not complete. As I look abroad, I see that the struggle between freedom and tyranny continues to be waged. Disappointingly, in some places, it is autocracy, not freedom, that is winning the day.

This is why I strongly support continued Congressional funding for the National Endowment for Democracy (NED). Ten years ago, at Westminster, you will recall that I outlined a new, bold initiative for our country to publicly lead the struggle for freedom abroad. As part of this effort, at may request, the National Endowment for Democracy was created.

In its short life, NED has been on the cutting edge of America's work to strengthen new democracies and to open closed societies to democratic ideas. During my time in Washington, and even since returning to California, I have seen firsthand that, from Moscow to Managua, NED's work has opened the dream of freedom to millions. This, in turn, has advanced the American interest in peace and freedom, making the world safer for our children.

Yet, these new democracies are still fragile, and over half of the world still remains in the hands of tyrants. From Havana to Hanoi, much work remains to be done. Clearly, now is not the time for us to abandon the courageous men and women who continue our fight for freedom and look to us for inspiration and support.

Without the strong and energetic support of NED, however, it is unlikely that these struggling democracies can prevail. And should they fail, we run the risk of reversing the great global strides that we made together. This could potentially jeopardize our very own freedom.

I urge now, as I did ten years ago, for continued support of NED to ensure that America remains that shinning city on the hill.

Sincerely,

RONALD REAGAN.

Mr. MCCAIN. I was fortunate to observe the recent election in Cambodia, an election which very few people truly believed would ever occur. Ninety percent of eligible voters in Cambodia risked threats to life and livelihood to cast a hopeful vote for the future of their country. They did so with the important assistance of two of NED's grantees: The Democrat and Republican Institutes. These institutes can provide assistance to emerging democracies which AID cannot provide.

I have a letter from the Director of AID and the Director of USIA which clearly point that out.

Using pro bono trainers experienced in the mechanics of our own democracy, they can train political parties, undertake grassroots people-to-people programs to imbue struggling societies with an understanding of, and devotion to, democratic principles. They are far better able to react quickly to changing circumstances, in emerging contingencies in those societies than AID with its cumbersome bureaucracy could ever hope to accomplish.

Should any Senator travel to the furthest outpost of what used to be the Communist world, they will find there the most compelling arguments for continuing our support for NED.

I was recently in Albania. Until a very short while ago, no country on Earth was more isolated from Western values, indeed from the world, than Albania. Even Soviet and Maoist communism was too accommodating of human rights for the orthodox dictator of that poor country. Albania's quick emergence as a vibrant and enthusiastic functioning democracy is nearly a miracle, an event which should fill every American with pride.

On my recent trip, I met with the democratically elected President of Albania, a man of great wisdom. He did not know that I was involved in any way with IRI.

As they recounted their experiences in advancing the cause of liberty in Albania, unsolicited by me, they both described IRI and NDI support for Albania democracy as "vital" to the success of their election.

Hearing of challenges to NED in our own Congress, the President of Albania, Sali Berisha, recently wrote Senator MITCHELL. He said:

> I strongly urge you and the Congress to reexamine the decision and continue your support for the Endowment. Its elimination will be a blow to the emergence of democracy in many areas of the globe.
>
> Countries making the transition to a Democratic system of Government face numerous obstacles which must be overcome. I have personally been involved in this struggle in Albania where the National Democratic Institute and the International Republican Institute have been active since 1991. They were, in fact, the first democrats from outside our long isolated country to arrive to help us. They have proven to be our most reliable friends.

I tell you what they did, Mr. President, among other things. Sixty-five percent of the population of Albania lives in rural areas. There was no possible way in that poor country that this opposition party could get out into the countryside and campaign and take their message to the people. They were given six, count them six, Jeep Cherokees that enabled them to get out into the countryside. They were able to carry their message, and according to the President of Albania, the reason why they were able to win that election—not according to Senator MCCAIN, but according to the President of Albania—is because they were provided the transportation by the National Endowment for Democracy to do so. If it were not for them winning that election, they would still be under a government of Communists who now call themselves by another name.

Time after time, example after example, people like Elena Bonner, who is a fairly credible witness, have spoken in strongest terms in favor of the National Endowment for Democracy. Leaders throughout the world have spoken in favor of NED yet we sit here and argue over $30 million in a $23 billion appropriations bill.

Mr. President, the President of Albania went on to say:

For the U.S. Congress to withdraw from its active promotion of democratic values would be disheartening and potentially threatening to those in the midst of the struggle.

Mr. President, we have recently heard from a great many struggling people overseas who have offered their own stirring testimonials to the enduring importance of the Endowment's mission. I quote from Elena Bonner:

Practically speaking, the Endowment is the only grant-giving organization which focuses its activities in the post-totalitarian countries directly on supporting the work of non-governmental organizations. In this way, it promoted the emergence of a civil society which serves as the basic guarantee that the future development of these countries will follow along a democratic path. The closing of the Endowment poses a danger which can best be characterized by the proverb "penny-wise, pound-foolish."

Mr. President, I could also quote from the recent editorials in our own newspapers, opinion leaders such as David Broder, George Will, and Abe Rosenthal. All of them, as well as the editors of the Washington Post, Wall Street Journal and many other newspapers, have written eloquently of their ardent support of the NED.

Mr. Rosenthal wrote:

The Iraqis fighting Saddam Hussein say one American organization in particular helps keep alive their hopes that democracy has a chance in their country. China's dissidents, at home or in exile, know and bless its name—the National Endowment for Democracy.

This bill appropriates $35 million for the Endowment. As I mentioned, a small amount of money.

Under NED programs, American volunteers with practical and technical expertise in the workings of a stable democracy are able to circumvent the huge bureaucracies which govern so much of American assistance and quickly bring the countries on the edge between freedom and tyranny the knowledge and experience necessary to ensure that the hard-won gains of today are not lost to our disinterest tomorrow.

Mr. President, I ask my colleagues to consider for a moment that element of our national life that defines America's greatness. Two hundred eighteen years ago we embarked on a revolution with a message that still endures as the greatest proclamation of human rights:

We hold these truths to be self-evident: That all men are created equal and endowed by their Creator with certain inalienable rights, among these are life, liberty and the pursuit of happiness.

Our national resources, the resourcefulness of the American people, our determined spirit to build a great nation and a decent society, the unmatched strength of our military, all these things help explain why America occupies such a large place in history, but they do not explain why generations of peoples from around the world exalt in America's historical role, why on hundreds of walls in the capital of Albania one reads over and over and over again "Long Live America. Long Live America."

For that explanation, we look no further than Mr. Jefferson's words, to the enduring message of our own revolution. We are linked by those words forever to every occasion where one man rises up to shake off the chains placed on him by another. As long as we remain faithful to this most noble of causes, our greatness will endure.

I hope every Member of this body will consider this before he casts a vote against a program which I believe defines all that is best about America.

Mr. President, I would now like to briefly respond to some of the statements made by my friend from Arkansas.

Relic of the cold war. Yes, it is a cold war relic and its responsibilities and challenges are greater than ever before.

As far as NED doing the same things that AID does, I have a letter, Mr. President, from the Director of USIA and the Administration of Agency for International Development which says:

Like NED, USAID and USIA are also engaged in helping to build democracy. But NED has a distinctive capability for providing early and critical institutions and business and labor groups—the elements of civil society upon which the larger structures of Democratic governance ultimately must rest. NED and its institutes do this by engaging counterpart groups and leaders from our own nongovernmental sectors.

Funding the NED is an extremely cost-effective investment for the United States, our allies and the cause of freedom. Democratic movements around the world have saved the United States untold billions of dollars in defense spending alone. We urge you to support the President's request when it comes before the Senate. J. Brian Atwood, Administrator, United States Agency for International Development; Joseph Duffy, Director, United States Information Agency.

The Senator from Arkansas said that the Washington Post stated that there was some abuse on the part of the National Endowment for Democracy. It might be of some interest that the Washington Post editorialized in favor of funding for the National Endowment for Democracy on June 27, in an editorial entitled "Neocon Pork."

In sum, it takes a lot more to consolidate democracy than political consultants, labor and media advisers and special interests in human rights and women's issues, but NED has made a place for itself in providing practical help to societies struggling to dig out from top-down misrule.

David Broder in an article titled "No Good Deed Unpunished" also supported NED.

NED had a proven track record and a tiny budget. It united Republicans and Democrats, business and labor in helping small groups abroad in their struggle for democracy so the House killed it.

The editorial support is extensive. They include the following:

Ken Adelman: "Senate's Chance to Reduce NED."

James Phillips: "Shortsighted NED Slayers."

Morton Kondracke: "Neoisolation Symptoms."

Christian Science Monitor: "Spreading Democracy Around the Globe."

George Will: "Congress Starves Democracy."

George Will states that:

The NED helps democracy by means of small but life-giving grants for trade unions, student group publications, legal assistance for the persecuted, and other measures. It has a record of success in helping democracy put down roots in stony social soil. By voting to stop this cost-effective work, the House voted to save $50 million, less than half of what it is eager to spend on handouts to corporations through the MPP.

Mr. President, I could go on for a long period of time.

I would just like to say that the Senator from Arkansas said that two organizations, the Democrat and Republican Parties, are two organizations that do not agree on anything. Mr. President, I suggest that he consult leaders of both NDI and IRI. I suggest he consult Senator MITCHELL and Senator DOLE and other Republicans and Democrats who have been involved. They agree about this program.

Labor received more money, according to those charts. Yes, labor received more money. As a person who is not exactly a strong supporter of organized labor, I was a bit uncomfortable with that. But the fact is, organized labor, especially the AFL-CIO, was far more capable of immediately implementing programs to help further democracy, than the Chamber of Commerce.

Mr. President, the Senator from Arkansas also said that NED has funded democracy-building activities in Great Britain, France, and New Zealand.

Let me respond. Before the fall of communism in Eastern Europe, the National Endowment for Democracy and its core grantees worked with exiled dissident groups located outside these closed societies, including Great Britain and France, who are working for the downfall of communism. Some of these groups were located in Great Britain and France. NED has never supported any group in New Zealand.

So to state that we supported groups in Great Britain and France and New Zealand, of course, is disingenuous at best.

Mr. President, I would like to conclude my remarks, and I apologize to my colleagues who have been waiting for an inordinant period of time. I have seen a lot of blood spilled in my life, lots of it in defense of somebody else's

freedom. I see an opportunity for us not to spill anyone else's blood. We can do it by helping these emerging countries implant deeply the fundamentals of democracy, which is what makes nations not go to war.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

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

Mr. President, I first of all want to commend my colleague from Arizona, and I am going to abbreviate these remarks because basically he said it all. He said it all, and then some, with enough documentation to make the case.

Mr. President, on September 18, 1787, as Ben Franklin emerged from the Independence Hall in Philadelphia, he was asked by someone what they had done inside that room. "Do we have a Republic or a Monarchy?" he was asked. A Republic, if you can keep it.

I think the important part of that phrase was the last part of it: If you can keep it. We all appreciate immensely that the cold war is over. But as the Senator from Arizona pointed out, now is the hard job, in many ways, in these countries: Determining whether or not democracy will grow roots and can be sustained.

The National Endowment for Democracy is about the best effort we have at the lowest possible price to help try to sustain that—not from our Government, government to government, doing it, which I oppose. I do not want to see us getting involved, through AID and the State Department and others in local politics. But I think through the National Endowment for Democracy, we have found a unique vehicle by which people of different political persuasions and different philosophies have been able to come together under the same roof, committed to the same ideals and values.

That is democracy. This is a unique occurrence. It is an example, the only one I really know of, where both labor and management, Republicans and Democrats and others of political persuasion, come together to try to promote democracy and sustain democracy in those places where it is most threatened.

I would just, for my colleagues' edification, point out what we are talking about here. This so-called humungous organization employs 46 people and has a $2 million payroll.

As my colleague from Arizona pointed out, you know, we have a lot of speeches about deficit reduction. But in a $30 billion program, $30 million here is really a pittance in terms of what we are talking about, not to mention what we sustain in terms of saved costs.

My colleague from Arizona and I spent a good deal of time on this floor and elsewhere in the past decade arguing about what our policy should be in El Salvador and Nicaragua. Whether you agree with my colleague or with me, this much is true: We spent, over a period of 10 or 12 years, some $4 billion engaged in the affairs of those countries for military aid, economic aid, and the like, to try to preserve democracy. We argued about how you best achieve it.

The point is, now we have a chance in a place like El Salvador, which is now struggling to get on its feet, to go in with a small amount of help and assistance and sustain that effort. I think that is worth the taxpayers' money to try to do it. As my colleague pointed out, there are so many places like Albania and Poland—you can go around the world; I think some 75 or so different countries is the number—where this organization, with the help of other people, has been able to make the difference.

I think that is extremely worthwhile. I think it is an extremely good investment, Mr. President, to try to sustain these efforts. I would rather be doing that than be meeting my colleague from Arizona on this floor again next year or the year after, arguing about whether or not we ought to have military aid, or how many forces we should send down, or what else we should try to do to try to salvage some situation, when in fact this organization has proven to be remarkably successful in helping us sustain those efforts of democracy.

I have a particular interest in Latin America. For the first time in the 500-year history of the Americas, at least since the two cultures encountered each other back in 1492, we have more democracies today in this hemisphere than have ever existed, ever. And yet, Mr. President, I will tell you categorically that they are fragile, in many cases; that if we do not make a sustained effort to try to support them and shore them up, I fear in a number of cases we will lose them.

I am not going to suggest to you that by funding the National Endorsement for Democracy, that we guarantee that. I cannot. Anyone would be a fool to suggest that. But I think this is a good insurance policy to provide the mechanisms, the people, the resources, to try to sustain those efforts.

So I know the temptation will be great. This is almost an easy one today, with great and legitimate concerns about what is happening here at home. God knows, people are suffering in the Midwest right now. With the staggering floods and the hurricane in Florida last year, $30 million, I know, could be well spent in this country.

But I say to my colleagues, $30 million well spent in trying to sustain and support democracies around the world is well spent as well. And if we end up saving—in fact, I predict we would—millions and millions of dollars in taxpayer money as we try to support those efforts, it is in our interest to do so. It is not just for some vague ideal or value. It is in our very practical interests to have democratic societies and governments with whom we can trade and negotiate, with whom we can do business and try to support economic growth in this country.

So this issue is more than just some fuzzy-headed idea to go out and support some ideal. It has practical implications, as well.

Mr. SARBANES. Will the Senator yield for a question? As I understand it, Oscar Arias, the Nobel Prize winner, is in support of the activities. Is that correct?

Mr. DODD. That is correct. In fact, the Senator from Arizona read a quotation from Oscar Arias in strong support of NED.

Mr. SARBANES. How do we square that with this letter? I am going to address this letter that was sent to us by some of our colleagues, because you are intended to get one impression from the letter; and then when you start checking behind the impression, you discover that in fact this is just to the contrary.

The letter seems to be making a point, saying that they funded opponents of Oscar Arias, President of Costa Rica, winner of the Nobel Peace Prize. That is in the letter. I understand what happened is that one of the grantees supported a think tank on whose board was a person who later ran against Oscar Arias for President of Costa Rica—the democratic process, if I may say so, clearly. And Oscar Arias at least appears to recognize that it is the democratic process because, contrary to the impression the letter gives to you, written by the people bringing these amendments now to the floor, Arias supports NED.

This letter is intended to make you think that Arias would be upset with NED. As I understand it, he supports NED, and there is a quotation to that very effect.

Mr. DODD. My colleague is absolutely correct. As I mentioned a moment ago, the Senator from Arizona [Mr. MCCAIN] read into the RECORD the quotation. I have spent a great deal of time with Oscar Arias. I personally have a great deal of affection and admiration for him. Categorically, without any quotation, I can tell you that he strongly supports the NED, and what he was doing, not just in his country but throughout this hemisphere, indicates this is exactly the kind of thing he believes we should be doing more of because of the value of democratic institutions.

So it is an extremely worthwhile point to make, because the letter certainly leads one to believe that a Nobel laureate, if he were here on the floor of the Senate today, would vote for the Bumpers amendment.

Mr. SARBANES. That is right. They said before this amendment, NED funded some program that was against Oscar Arias. As it turns out, first of all, when you understand what it was, it seems a perfectly legitimate sort of activity, and Oscar Arias, to his credit, who really is a true democrat, supports NED and its activities.

Mr. McCAIN. I have one additional comment in response. He is exactly right. This is an example among others of the disingenuousness of the opposition. They said NED supported organizations in Britain and France. They supported exile organizations that had to be in Britain and France because the exiles could not go back to their own country. They also said they supported programs in New Zealand. There is no record of that. The opposition at times has been disingenuous.

I also want to comment briefly that the Senator from Connecticut and I have been involved in Central American affairs for many years. We have had our disagreements, but the fact is that we have had the same goal. There is the Republican approach to some issues and the Democrat approach. The Senator from Connecticut and I have had disagreements from time to time. Our goal was the same. I think that one of the reasons for success of democracy in this hemisphere today is that we took a lot of approaches and, together, we all succeeded. That is the essence for the National Endowment for Democracy.

Mr. DODD. I do not know whether my colleague included an article by David Broder in the Washington Post of Sunday, July 4, 1993. The title says it all: No Good Deed Unpunished.

It describes what happened in the House of Representatives, and it lays out——

Mr. SARBANES. If the Senator will yield, I wish the Senator will read further from that headline. What it says is not only "No Good Deed Unpunished"; It also says:

The NED "had a proven track record and a tiny budget." It united Republicans and Democrats, business and labor in helping small groups abroad in their struggle for democracy. So the House killed it.

He made a strong statement about what NED has done and concludes by saying:

The Senate next month has a chance to undo the damage and keep the United States on the side of building democracy in the world.

Mr. DODD. I thank my colleague for highlighting that.

I ask unanimous consent that the article be printed in the RECORD at this juncture.

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

[From the Washington Post, July 4, 1993]

NO GOOD DEED UNPUNISHED

THE NED HAD A PROVEN TRACK RECORD AND A TINY BUDGET. IT UNITED REPUBLICANS AND DEMOCRATS, BUSINESS AND LABOR IN HELPING SMALL GROUPS ABROAD IN THEIR STRUGGLE FOR DEMOCRACY. SO THE HOUSE KILLED IT

(By David S. Broder)

The members of Congress are home for the July 4 holiday, and many of them will mark the greatest of our patriotic celebrations by quoting once again the stirring words of the Declaration of Independence.

They cannot be heard too often: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

That is the basic credo of democracy, as vital today as it was when first proclaimed 217 years ago. Unfortunately, 243 House members cast some doubt on their understanding of the enduring importance of that message when they voted last month to kill the National Endowment for Democracy, the small, government-financed agency that for the past decade has fostered grass-roots democratic movements all around the world.

NED is a tiny operation. It employs 46 people and has a payroll of less than $2 million. The bulk of its money—$48 million was the amount the House killed—goes to small, struggling organizations such as the Democratic Development Center in Latvia, which supports politicians, journalists and citizens sniffing the first breaths of freedom.

Rather than channel the grants through a big government bureaucracy, NED operates through specially created international arms of four organizations that know a lot about Main Street capitalism and grass-roots democracy—the Republican and Democratic parties, the Chamber of Commerce of the United States and the AFL-CIO.

The man who led the fight against NED in the House is Rep. Paul E. Kanjorski (D-Pa.), who has been after its scalp almost from the time he arrived in 1985. Kanjorski tells me he was offended by the attitude a senior NED official took when the congressman first began inquiring into its operations. His passion on the subject is clear, but his reasoning is not always easy to follow.

In his floor speech, Kanjorski said it was "an insult to the Constitution" to "give taxpayers' money to a private organization to carry on the foreign affairs of the United States." No one in the State Department has ever charged such an act of usurpation, and three presidents have supported increasing levels of funding for NED.

Kanjorski is deeply suspicious of the participation of the Republicans, Democrats, business and labor. He spoke of "an unholy alliance" and, in a wonderful non sequitur, said, "NED puts together so many unfriendly parties in the bed together that it makes us wonder whether we in fact have not come together in a unicameral legislature."

When I asked him what exactly bothered him about the participation of groups that differ on many issues—but not on their commitment to democracy—he replied with another remarkable bit of logic. "They're all operating under the same flag," he said. "That's contrary to our system of checks and balances."

Yet Kanjorski was able to prevail on the House floor against the combined opposition of the president of the United States, the leadership of both parties and the ranking Democrats and Republicans on the House Foreign Affairs Committee. In pure political terms, it was quite a feat for an unheralded member with no claim to jurisdiction or special expertise in this area.

The 243 to 181 roll call on June 22 was a peculiar vote. Freshman Democrats voted 40 to 23 to kill NED; more senior Democrats, 96 to 90 to save it. Despite the fact that NED was created in the Reagan years and several of the House's most prominent conservatives endorsed it strongly in the debate, Republicans voted 112 to 62 against it. As with the Democrats, the freshmen led the revolt.

One theory is that the freshmen of both parties were spooked by an ABC-TV news piece the night before the vote—a piece in which Kanjorski was the only member of Congress quoted and in which the supposedly neutral correspondent said, "Communism may be dead in much of the world, but the endowment is still costing you $30 million a year [last year's appropriation] to support foreign labor unions, small businesses and political activists."

Another, less kindly theory, which might be pondered by proponents of term limits, is that many of the freshmen may lack historical appreciation of the effort it has taken to cultivate democratic movements such as Poland's Solidarity—an early recipient of NED help—and its counterparts around the world.

Backers of NED point out that the Cold Way may be over, but the triumph of democracy in large parts of Asia, Africa and Eastern Europe is far from ensured. All sorts of hostile elements are ready to strangle democracy in the crib. When Americans turned inward after World War I, thinking the world had been "made safe for democracy," what we got was World War II.

NED programs—from legal assistance to political prisoners in China to the teaching of mediation techniques in South Africa to technical aid and training for privatizers in Bulgaria and union organizers in Albania—do not deserve to be sacrificed to Mr. Kanjorski's conspiracy theories.

The Senate next month has a chance to undo the damage and keep the United States on the side of building democracy in the world.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I must say that I have heard some important, interesting, even powerful statements today on the floor. I hardly know where to begin in discussing this subject. Let me say to my friend and some others, the amendment to cut or eliminate funding for the National Endowment for Democracy [NED] is neither unimportant, embarrassing, nor trivial. It is none of those. So let us start with that understanding.

It is true that Senator BUMPER's motion cuts only $35 million. I guess that is not very much in the scheme of a bill which is spending many billions of dollars. But $35 million, of course, is a lot of money in my hometown; there are only 350 people who live there. To them, it is a lot of money.

But it is not the $35 million that I want to talk about just for a minute. I

am going to talk about the substance of the issue. We have been talking for an hour on this floor about this subject. You know something fascinating? After 6 months of hearing such a repetitive chant about, "cut spending first, cut spending first, cut spending first," I have not heard a word about cutting spending, not a word about how much is being spent here.

Let us talk for a minute about the difference between this NED program and this appropriation bill. As the chairman knows, this appropriation bill cuts spending. He did not bring a big, fat bill to the floor of the Senate that says let us spend a lot more this time around. That is not the kind of appropriation bill that was brought here.

Of course, if you look at some of the details of this bill, and especially if you are interested in this program, look at the increase proposed for this program—the National Endowment for Democracy. Do we subject this program to some kind of discipline? Is it this program when we say let us enforce cutting spending first? Oh, no, not this program.

From 1990 to 1993, a 3-year period in which everybody in this place has collectively been pulling on the public belt because we say we have to cut spending, this program doubled. That is right, it doubled.

Now we are proposing this year to increase it 17 percent.

I jotted down some notes on the back of a letter from President Clinton saying this is a good program. It happened to be laying here, and that is why I used it for notes. I could have used Jimmy Carter's letter or Ronald Reagan's letter. I have not received one from George Bush yet, but I am sure it is around here. And Richard Nixon certainly would have weighed in on this.

It seems that we critics of NED are somehow categorized as people who cannot quite see over the horizon. We just do not get it when it comes to these big international things like the National Endowment for Democracy.

Well, here is an audit report. This is the inspector general who took a look at this program. This was not 3 years ago, or 2 years ago, or 8 years ago. Do not dismiss this as a bunch of rabble. This is the inspector general report, and this inspector general report is dated March 31, 1993. That sounds to me like that was done recently. Let me read a couple of titles.

Chapter 2: NED Failed to Ensure Financial Accountability Over Federal Funds.

Whose funds? The American taxpayers'.

Chapter 3: Inadequate Solicitation of Private Contributions by NED and Its Grantees.

Chapter 4: USIA Failed to Exercise Financial Oversight Responsibilities Over NED.

Mr. President, this is not something that has dust on it. This is this year's report. In the GAO report from 2 years ago, it was the same thing. Well, we can ignore these. That is fine. If spending does not matter, and this is important, we say it does not matter whether there is accountability. Take money from the American people in the form of taxation and spend it.

In fact, have a town meeting before you set up the next plan to spend it and say to the folks at any town meeting in any town in this country that you have a new plan. Say we are deep in debt, but we have decided we are going to give some money to four entities. We are going to give a batch of money to the National Republican Party; we are going to give a batch of money to the National Democratic Party; we are going to give a bunch of money to the Chamber of Commerce and even more to the labor unions. We are going to ask them to go forth and use it productively to promote democracy.

I am not sure that they would quiet down long enough at the town meeting, once you finished saying what you wanted to, for you to leave the room.

What on Earth is this?

As this chart shows, we spend $383 million in the U.S. Information Agency, $296 million in AID, much of it to promote democracy around the world. Senators have all been there. I have been to refugee camps; I have talked to people running for office in various parts of the world. Senators know what we spend—hundreds of millions of dollars to do that.

But we are told it is better if we take this money and give it to the AFL-CIO, give to the Chamber of Commerce, and give it to the Republican Party and Democratic Party and let them travel first class around the world and give the money out. What a bunch of nonsense.

There is room for disagreement. I respect the chairman of the committee enormously. I respect Senator MCCAIN. I respect their views.

I ask my colleagues something: I would like to hear just for a moment on this floor, and I hope I will shortly, why at a time when everybody says we have to cut spending you come to the floor with this program and ask for a 17 percent increase.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DORGAN. When I have finished, I will yield.

Would it not be nice if America's kids had the kind of power speaking on their behalf as exist outside this Chamber?

Mr. KERRY. Mr. President, will the Senator yield?

Mr. DORGAN. I will give the Senator a chance to answer. I will propound it at the end of my statement again and give the Senator a chance to answer it then.

You walk in these doors. You have people out here standing who represent all these interest groups that get all this money. They want to keep getting it. In fact, it is the best of all worlds if they get it and have a body that says they will give you more.

Oscar Arias, of course, will support this. Can you tell me a foreign leader who will not like us to spend money for them? Of course, they support this sort of thing.

I will tell you something. When you walk through the door and see who is pushing for the money out there, or get a telephone call like I got today from someone who is pretty powerful in this country, you will hear: "You mean, you are going to try to cut this?" I said: "Yes, you are right." He said, "You know what that is? That is isolationist."

Isolationist—oh, the last refuge of a scoundrel is not excess of patriotism necessarily, but calling you an isolationist because they think you cannot see over the horizon on the basis of this policy or that policy. If you do not agree with the democracy-speak or the international-speak or the trade-speak here in Washington, DC, then you are an isolationist.

What about building democracy in this country? Do you know how many people voted in the last election? Fifty percent of the American people said: It does not matter. I do not care, and I am not going to vote.

We have so many troubles in this country you can hardly count them. What about endowing democracy in this country? What about investing in things here at home? What about reducing the deficit? What about this chant for 6 months: "Cut spending first?" And then we see a program like this that gives checks to these four organizations and says let us double it in 3 years.

I just want to hear some discussion on this floor.

Mr. KERRY. Mr. President, will the Senator yield?

Mr. DORGAN. I said when I finish I will. I said that to the Senator before.

I would like to hear discussion on this floor about how you justify doubling this appropriation in 3 years at a time when we are cutting budgets. Just how on Earth do you justify that?

I will tell you something: You do not justify it in my hometown, and the folks I represent are not people that do not understand. They very well understand how hard they work, how much they pay in taxes, and what those taxes are used for.

I guarantee you when you see reports, not just one, and not old reports—new reports that talk about first-class air travel, mismanagement of the taxpayers' funds, you see people around here who do not seem to care about it. The taxpayers have a right to be upset. They should be concerned

about democracy, of course, first here at home and then around the world.

The fact is democracy is winning, and it has precious little to do with NED. Democracy is winning because the Communists collapsed of their own economic weight. A whole range of things occurred. The Berlin Wall is down. Eastern Europe is free. There is no Warsaw Pact. In Central America Senators all know what has happened.

Can we justify money to help further the interest of democracy around the world? Yes, we can, and we have to.

We spend $383 million in USIA and $296 million in AID, and I support much of that. I support a lot of what is spent in encouraging democracies.

I spent years on the Hunger Committee in the House, and years working on a whole range of things, trying to help other people in poor nations, help other people help themselves. I support that.

I will tell you something: This is a demonstration that you can have the most egregious abuse in the world for taxpayers' dollars under the program and bring it here and you would find support for that program. Everybody in this town has a constituent, even waste, everything. Nobody wants to cut anything. If we cannot cut this, Lord, we cannot cut anything.

So, I say to my friends I wish it were so that those in this country today believe because they have lost everything by flood, hungry because they do not have enough money to pay enough to eat, need medical care but cannot afford it, would it be so that they would have such powerful friends to weigh in heavily as these people weigh in—$35 million at a time of belt tightening. We see money spent on them, not decreased, not threatened, but increased 100 percent in 3 years. Would that such powerful people speak for those in this country who need that kind of help.

But, no. Instead what we see is those powerful voices who weigh in for this, and I understand this. I understand a lot of people get a lot of money and love this sort of thing.

But the fact is in my judgment, just in my judgment, and I respect those who differ—coming from North Dakota, representing the people I represent, I honestly think that when an inspector general and the GAO say to you here is the way this money was spent, we ought to start saying it is spent in the wrong manner. It is not the way you treat taxpayers' funds. Let us do it through USIA. Let us do it through AID. Or even better, let us use the money to endow democracy here at home and fix the things that are wrong here at home first.

I would be happy to yield for a question to the Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator has asked several times how do we get the money and how do we justify this.

I would ask the Senator whether or not he is aware that the Foreign Relations Committee, by a very broad margin, overwhelmingly endorsed, not $35 million, but $50 million. This was a bipartisan endorsement, by conservatives, liberals, Republicans and Democrats.

I would ask the Senator, when he says how do we get this money, is he aware that we cut $500 plus million from the President's fiscal year 1994 budget request in order to fund an increase of $15 million for NED? We did this because it was the overwhelming judgment of the participants in the committee in process that this is one of the best bangs for the dollar that you can get in the way of that cut.

Mr. DORGAN. The Senator from Massachusetts is telling me that a 17-percent increase is really not what he wanted; he wanted a 300-percent increase. He wanted to go from $15 million to $50 million. I do not understand this. The Foreign Relations Committee really wanted to triple this.

Mr. SARBANES. What he told the Senator was cut by $500 million. That is what he told you.

Mr. DORGAN. I did not yield to the Senator. I will later.

Let me say if the Senator is saying that cuts in spending ought not to go to reduce the deficit but instead to the National Endowment for Democracy——

Mr. KERRY. Will the Senator from North Dakota yield?

Mr. DORGAN. I am happy to yield.

Mr. KERRY. Mr. President, the Senator from North Dakota is vastly distorting reality here. He is suddenly learning that this is not fiscal irresponsibility. It is not fiscal irresponsibility.

We cut over $500 million, and the President of the United States specifically cut existing funding levels in order to fund his request of $50 million for NED.

The second answer to the Senator's question is, no, the Foreign Relations Committee did not just dream this up. No, the chairman of the subcommittee did not just dream this up. The President of the United States said this is one of the most valuable programs we have and we intend to use it more.

We have a letter from the National Security Adviser, Tony Lake, sent to us the day of the Foreign Relations Committee vote. It says:

> As you know, the President has placed the promotion of democracy at the center of his foreign policy and so strongly supports the National Endowment for Democracy. The NED has been a dynamic and cost-effective organization that has contributed greatly to the American foreign policy objectives. We intend to rely even more heavily on it in the future.

The President believes that democracy building is at the center of our foreign policy.

So, we cut. We cut transmitters. We cut $60 million of salaries and expenses in the State Department. We cut $175 million of contingency funds for peacekeeping in order to be able to stand up when we go to our districts and say we are serious about promoting democracy.

This is not a charade.

The Senator from Colorado has been waiting a long time. I want to come back and talk about where that dollar really goes, which I will do.

But I again ask if the Senator from North Dakota was aware that we cut $500 million and that before we even cut the $500 million, the President of the United States made specific cuts in his budget request so that he could ask for $50 million?

(Mr. KERREY assumed the chair.)

Mr. DORGAN. I would say to the Senator from Massachusetts, I have information such as the arms control and foreign policy caucus advisory in front of me that tells me what the President's request was and how much the committee cut.

I simply disagree with the President if he believes we ought to increase this to $50 million.

Mr. KERRY. If I could just say, that is a very different issue, from what you made your argument on. If you want to argue that it is not working, then I want to have that argument in a moment.

But I do not think it is fair for you to argue this is somehow fiscal irresponsibility in the face of our budget-cutting efforts when, in fact, this committee has come to the floor and the subcommittee chairman, Senator HOLLINGS, has come with an extraordinary number of cuts in an effort to be able to fund this kind of effort.

Mr. DORGAN. I would just say to the Senator, because I am the judge of what is fair in terms of what I propose, but I will tell you this: If this were a domestic program that came to the floor with a critical IG report and a critical GAO report, it would be chewed up like a big bone.

My point is that my approach is on what I perceive to be the merits of the management of this program and what I perceive to be the need to cut spending.

But I did not yield to the Senator from Maryland. Let me do that. Let me do that briefly, and then let me finish in 30 seconds. I know the Senator from Colorado has been waiting a long time.

I yield to the Senator from Maryland for a question.

Mr. SARBANES. Let me say to my colleague, first of all, I agree with what he said at the outset, that this is a serious issue. I think it is a serious issue. I certainly do not contend differently. I think the Senator has raised an important issue and it needs to be addressed in a serious manner.

Second, I want to say to my colleague, I am not prepared to give an inch for my concern for the people here

at home. I support the NED Program. But I am not prepared to give an inch to him or to anyone else in this body about my concern for social justice here at home and building democracy here in America. I want to be very emphatic on that particular point.

Now, the Senator asked, you know, when you are cutting, how can you propose to increase the program?

First of all, I want to be clear—and the Senator from Massachusetts made the point—this increase is in the context of sweeping cuts as they were considered in the Senate Foreign Relations Committee. So, in effect, the cuts amounting to about $500 million, the proposal was to take this program up $20 million. And the reasons for it are rather clear. The President sent us a letter just today. I want to quote President Clinton's letter, at least in part.

I ask unanimous consent to have the letter printed in the RECORD.

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

THE WHITE HOUSE,
Washington, July 27, 1993.

Hon. GEORGE MITCHELL,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to express my strong support for the $35 million in funding for the National Endowment for Democracy recommended by the Senate Appropriations Committee.

Supporting the world-wide movement toward democracy is one of the best investments we can make in our own national security. NED has been one of our most important and effective instruments for supporting democracy abroad.

Now, with new democracies and democratic movements gaining strength from the former Soviet Union to Africa to Latin America, we need to make our support for democracy an even higher priority. The $35 million appropriation now before the Senate, while short of the $50 million I requested, would at least enable us to increase our support for those who are waging democracy's fight abroad.

I hope you will convey to the Senate my strong support for the full $35 million appropriation for this important program.

Sincerely,

BILL CLINTON.

Mr. SARBANES. I quote from the letter:

Supporting the world-wide movement toward democracy is one of the best investments we can make in our own national security. NED has been one of our most important and effective instruments for supporting democracy abroad.

Now, with new democracies and democratic movements gaining strength from the former Soviet Union to Africa to Latin America, we need to make our support for democracy an even higher priority. The $35 million appropriation now before the Senate, while short of the $50 million I requested, would at least enable us to increase our support for those who are waging democracy's fight abroad.

Now what the President is saying is our national interests are going to be served by enhancing democracy. And that is the President's statement.

I want to address one other chart, and that is your USIA-AID chart. We have a letter here from the Administrator of AID and from the Director of the U.S. Information Agency.

Now your argument essentially is, look, they spend money for the purpose of fostering democracy abroad and, therefore, we should do it only, as I understand it, only through those channels and not through NED.

I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, DC, July 23, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR MR. SARBANES: As the Administrator of the United States Agency for International Development and Director of the United States Information Agency, respectively, we are writing to urge you to support full funding of the President's Fiscal Year 1994 budget request for the National Endowment for Democracy. This item is included in the State Department Authorization and Appropriations bills, which the Senate will consider soon.

Democratic development is an essential part of economic development and the preservation of peace, and a natural concern of the American people. We believe that the NED fulfills a distinctive and a critical role in promoting democratic development and building free societies.

Like NED, U.S. AID and USIA are also engaged in helping to build democracy. But NED has a distinctive capability for providing early and critical institutions and business and labor groups—the elements of "civil society" upon which the larger structures of democratic governance ultimately must rest. NED and its institutes do this by engaging counterpart groups and leaders from our own non-government sectors.

Given the sudden and dramatic changes in the last five years, it is understandable that there is an appearance of overlap in the work of NED, AID and USIA. The National Endowment for Democracy is required by law to consult with the Executive Branch on any NED-funded programs prior to its implementation. This procedure ensures that such programs are not duplicative of other efforts and do not contradict US national interests. The three organizations each play unique and distinctive roles in this area and are working closely with the other agencies and with Congress to eliminate or prevent the possibility of future duplication. We are confident that this can be accomplished quickly.

We would also remind you that there are some nations where assistance is desired, needed, and can have a measurable effect, but where restrictions in law bar activities by U.S. AID and USIA. The NED often is the only organization that can establish a presence in such countries. The NED and its four recipient institutes—The National and Democratic Institute for International Affairs, the International Republican Institute, the Free Trade Union Institute, and the Center for International Private Enterprise—have repeatedly demonstrated that they can respond quickly to crises and to opportunities.

Funding the NED is an extremely cost-effective investment for the United States, our allies, and the cause of freedom. Democratic movements around the world have saved the U.S. untold billions of dollars in defense spending alone. We urge you to support the President's request when it comes before the Senate.

Very truly yours,

J. BRIAN ATWOOD,
Administrator, U.S. Agency for International Development

JOSEPH DUFFEY,
Director, Information Agency.

Mr. SARBANES. They make the point that the "NED fulfills a very distinctive and a critical role in promoting democratic development and building free societies."

The PRESIDING OFFICER. The Chair would advise the Senator from Maryland that he was yielded to for a question.

Mr. SARBANES. I am leading to my question. I need to make this point to lead into my question to the distinguished Senator from North Dakota.

Mr. DORGAN. I would say to the Senator from Maryland, Senator BROWN has been on his feet for some long while. I would appreciate the question and I would be happy to respond.

Mr. SARBANES. Has the Senator seen the letter from Atwood and Duffey?

Mr. DORGAN. I do not know if I have seen that specific letter.

Mr. SARBANES. I just wanted to quote this. If all of this is duplicative, then there is something to your chart. But if it is not duplicative, I would ask the Senator to consider this.

We would also remind you there are some nations where assistance is desired, needed, and can have a measurable effect, but where restrictions in law bar activities by U.S. AID and USIA. The NED often is the only organization that can establish a presence in such countries.

And they go on to make the point that again and again they have been able to act when government-to-government programs would not be effective.

Does the Senator recognize some merit in that argument?

The PRESIDING OFFICER. The Chair would advise Senators to direct their questions through the Chair.

Mr. DORGAN. Well, Mr. President, the Senator from Maryland has asked what I recognize and what I know. I recognize the argument has been made there is no duplication. I have heard that argument.

Yet it seems to me that we are spending over $700 million, much of which goes to further the democratic values and further democracy around the world through the USIA and AID.

I want to wrap this up so Senator BROWN, who has a lot to say on this subject, is able to weigh in.

Let me conclude by saying this. I made the point that in my judgment

the criticisms of this program suggest to me that we ought to take a look at the merits of the program and how the taxpayers' money is spent.

I would say to the Senator from Maryland, he will not give an inch to anybody in terms of his commitments to things here at home. I will not give an inch to anybody in terms of my approach and my commitment to demonstrating democratic values all around the world, in trying to export democracy and help fledgling democracies. I would not give an inch to anybody on that.

The question is not whether we do that. The question is how we spend an enormous amount of money trying to do that.

What we have done is created a National Endowment for Democracy, at a time when we are short of money. We are taxing people to the tune of about 19 percent of the GNP, and spending 24 percent of the GNP, and charging all the rest to the kids and grandkids.

We have concocted an approach that says, let us give checks to the AFL-CIO, some to the Chamber of Commerce, some to the Republicans, some to the Democrats, and tell them to go forward and do good work.

Does it surprise anybody in this Chamber that we see the IG and GAO reports that suggests an enormous amount of money has been wasted?

I just ask the question: Is this important? Is it important to increase at 17 percent when we are supposed to tighten our belt? Is it important to double it in a 3-year period when we are supposed to be dealing with the deficit?

I just ask those questions in a way that would encourage people to answer them by saying, let us cut some spending here.

Let me conclude by mentioning that, as I listened to this today, it reminded me that Representative Moe Udall—a colleague of Senator MCCAIN's and mine in the House—used to tell about a guy that came up to him in Arizona once and said to him:

"You know, there must be a lot of smart people down there in Congress, huh?"

He said, "Yeah."

"Probably some who aren't so smart, too, huh?"

"Yeah."

"Darn hard to tell the difference some days, ain't it?"

"Yeah," he said, "it is."

This is a debate full of good people with, I think, great ability. And we come to radically different conclusions about whether this is a wise expenditure of funds, and what it will do not just for this country, but also for the world.

I just say that Senator BUMPERS has proposed an amendment here that I support and support strongly as a cosponsor. He has done it, in my judgment, eloquently.

Senator BROWN and others are going to speak on the same subject in opposition to this spending.

Is it totally useless? Is it all wasted? No.

But is increasing NED funding what we ought to be doing, given our circumstances, given where we find ourselves doubling this in 3 years. Should we be increasing it 17 percent this year, giving a bunch of money to a bunch of people and saying, "Do something good," and then discover they did not do something good but, in many instances, they were traveling first class and wasting money.

Look, it is time for us to decide to be responsible. And I hope, with this vote on the Bumpers amendment, we will finally do that.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise as a cosponsor of the Bumpers motion to table the committee amendment. I commend the distinguished Senator from Arkansas for his courage in making this very thoughtful motion.

We have heard from a number of speakers today, and I believe all of them have had a thoughtful and legitimate concern about promoting democracy overseas.

Senator MCCAIN from Arizona, on my side of the aisle, has done more to protect democracy in both a personal and a public way than any human being I know. I suspect, if the truth were known, his family over its centuries of service to this country has probably done more, or certainly as much, as any family in our history.

So I do not come out of concern that the advocates of NED have bad motives. I think they have good motives. I would like to deal very briefly with the arguments that have been made against the Bumpers amendment, and then I would like to share with you my concern as to why I think this spending on the National Endowment for Democracy is a mistake for this country.

First, much has been made about how this is an easy target. I could not disagree more. This is the toughest target I have ever seen. This is one that has not only Ronald Reagan lobbying for it but everybody but Herbert Hoover, and he may well have written a letter on behalf of NED. We are not quite sure. Not all the letters have been distributed.

If that were not enough, on the Democratic side we have had former Vice Presidents and other Democratic leaders from across the Nation call in. We have had columnists in every leading newspaper—Democrat, Republican, Conservative, Liberal, Independent—write glowing letters on behalf of the endowment. What is more, many of our distinguished Members, have had an opportunity to travel with NED. It is not an easy target. It is the toughest target I have ever seen.

The folks who are opposed to controlling the spending here, who are opposed to this cut, say NED's purpose is to promote democracy. If you believe in democracy, you will support NED. Those arguments are made sincerely. They are made by people who believe the issue here is democracy—promoting it. That has been the rallying cry ever since this program has been brought forth and, indeed, the advocates of the program have accurately recalled that NED was originally proposed by Ronald Reagan. That is correct.

I respectfully submit those who come to support NED out of concern for democracy, concern that democracy will not have an advocacy program without those $35 million should check the facts.

What are the facts? The facts are that USAID and the U.S. Information Agency together last year spend $679 million on democratic—prodemocratic projects, versus $30 million for NED. That is some 22 times, almost 23 times as much as NED spent. Anyone who thinks this issue is promoting democracy has not looked at the numbers or the facts or the programs. This is not a question of whether or not you believe in democracy. I hope every Member of this Chamber believes in democracy and would want to promote it and does promote it. The question is not whether or not you favor democracy.

USAID spent $225 million in 1992 on pro-democratic projects. In 1993 they are scheduled for $295 million in prodemocratic projects that are very, very similar to the kinds of things that NED accomplishes. It is not a question of whether or not you promote democracy, and it is not a question even of whether or not you have money to fund the projects NED has been funding. That is not the difference.

As a matter of fact, NED's core group last year got more money from USAID's democracy projects than they did from NED. The issue is not democracy nor is it funding democracy.

Second, I have had a number of advocates of NED jovially make their point with me that NED is a private effort. If you do not like NED, what you are really in favor of is having the Government decide all of this. That is a fun point to make but it is not accurate. The private efforts are Government funded, and in fact the core grantees of NED are funded out of USAID, too. It is not a question of whether you have private control of a foreign effort to promote democracy or a public one. They both promote both public and private efforts in this area and both are public. There is no difference.

Third, some on this floor have said that the difference with NED is that it gives you an ability to operate within countries that the United States cannot, through the USAID. Indeed, there are some countries in which USAID

cannot operate: North Korea, China, right now Vietnam—although that appears to be under review; there are a variety of others—Libya, and so on. But it would be inaccurate to say you cannot operate in those areas, as has been suggested on this floor. Why? Because my understanding is that the countries are restricted, are available at the discretion of the Secretary of State. If the Secretary of State wants to approve sending funds to promote democracy into Libya, he can do it. To suggest that there is a list of countries you cannot do business with and that the only way to promote democracy there is through NED misses the whole point of the law. The whole point of the law is that the Secretary of State has the ability to make that decision, and anytime he wants to, he can approve projects in those areas.

So the third reason that has been given to have NED, that you can operate in countries you cannot operate in under USAID, falls apart when you look at the fact that the Secretary of State can waive the restriction.

If you do not trust the Secretary of State or you do not want the Secretary of State to coordinate foreign policy, that is a different matter.

Fourth, some have said with NED we can influence elections which current law will not let us do through USAID. I believe that is correct. That is an appropriate point. It is an accurate point. Current law does restrict the USAID from funding projects that influence elections, directly or indirectly.

Should that be the reason you would support the $30 million or the $50 million that the authorization committee has in its bill? Let me suggest the answer to that is to look at how that money is spent in Panama, for example. Let me read what the U.S. Ambassador said about NED's donation to the campaign of Panama. These are not my words. These are in a telegram sent by the U.S. Ambassador to Panama. He wrote in a memo: "The Embassy requests that this harebrained project be abandoned before the"—and then the next word is not appropriate for the Senate floor—"hits the fan."

The candidate, incidentally, that NED backed in the elections there, won a total of 1,700 votes.

Does it make sense for the United States to fund efforts to influence foreign elections, get involved in the elections? We know how we react? We have laws on the books that make it illegal to have foreigners fund our campaigns. We consider it criminal in the United States. Do the Members of this Chamber really think it is a good idea for us to make campaign contributions to candidates in other elections?

The Costa Rican example has been cited and some Members have actually gone to the point of suggesting that a letter of which I am a signer and other Members of this Chamber are signers is disingenuous or inaccurate. That is not the case. One of our distinguished Members held the letter up, described—or misdescribed, more properly—something in the letter, and then pointed out that which he misdescribed was not true.

I am willing to stipulate—I will agree that if you misrepresent a letter, that it could well be inaccurate. But that is not to say the letter itself is inaccurate. It is not inaccurate. And to misquote it and then shoot down what you have misquoted is not the kind of tactic I think is terribly helpful in this debate. The fact is, money was given to an opponent to the President of Costa Rica. We have talked about how the President of Costa Rica feels about foreign assistance from the United States.

Is there anyone here who thinks somebody who gets U.S. assistance is going to speak out in opposition to it? Does anybody think that? Of course he likes foreign assistance. Of course he is not going to criticize it. But ask him the pertinent question, ask him if he likes having the U.S. fund political opposition within his country, an act which we make illegal in the United States. My guess is you would get a different answer, and I suspect Members listening know that.

There have been funds going to political organizations in Britain and a neo-Fascist group in France. For those who are interested, there is an article entitled "Britons get Reagan 'slush money'." It is from the London Financial Times, 1985.

From a Wall Street Journal, 1989, headline: "U.S. Group Aided Arias's Costa Rica Foes."

This is not an allegation that is brought by a few people. This is from the Wall Street Journal.

Let me quote Congressman Solarz' observation on this particular question, because it has been raised on the floor. Some critics say that it came close to breaking the law. This is the reference:

"They may technically have been within the law, but I felt this clearly violated the spirit," said Representative Stephen Solarz, a New York Democrat.

Mr. President, the Washington Post, in 1985 headlines: "Rightist French Students Get U.S. Anti-Red Aid." Political groups in France got money—is France a country that needs help to establish a democracy?

From the New York Times, 1990: "U.S. Grant to 2 Czech Parties is Called Unfair Interference."

Mr. President, for Members trying to make up their minds on this issue, they should ask themselves how they would feel about a foreign country donating money to influence elections inside the United States. Ask yourself how many people are going to sign onto repealing the law that is on the books that makes that activity illegal?

If someone honestly believes that the way to have an influential, effective foreign policy is to have us fund elections abroad at the same time we vote to do away with PAC's at home, may I suggest that they have a heightened sense of humor. To think that the reason that we ought to keep NED is so that we can contribute to political action committees or form our own political action committees for international elections I believe is not a good judgment. I think when this body reflects on it, they will come to that conclusion.

What are the other differences? What has been quoted on the floor is this: NED is a cost-effective way to distribute aid. We all are subject to that because our good friends, whether we are Democrat or Republican, are on the boards of the core grantees. And I say good friends. They are my good friends on the Republican board; I hope some on the Democratic board, as well. And I think members of the Democratic Party would find their good friends on the board. Certainly, people who are active in the Chamber of Commerce find their good friends on the board, as well as the labor unions.

Is it a cost-effective way to distribute the funds? Let me quote to you from the studies. This is a statement from the GAO report, 1991. It is from that summary that they put together:

> NED did not have a sufficient system to determine whether NED goals were being met and that the grants were not adequately controlled or accounted for.

Does that sound like an efficient way to distribute the money, not even having an adequate system to account for the money or to control the money properly? That is from the GAO report.

Mr. President, in March 1993, USIA's Inspector General's report concluded:

> NED failed to ensure financial accountability over Federal funds.

From the executive summary:

> NED procedures during the period audited were insufficient to ensure that grantees, one, could properly account for the grant of the funds.

They did not even have a system, according to the inspector general, that would properly account for the funds.

> Two, "were in compliance with grant terms and conditions."

In other words, they did not have a system to determine whether they even met the grant terms and conditions.

> Three, "were receiving proper audits and other forms of verification as required by its grant agreements with USIA."

Mr. President, if this were one audit report in 1 year, I think Members could properly come to the floor and say, "Well, hey, there really are cost-effective ways to distribute the money; it is just that they had 1 bad year." I do not think anybody is going to come to the floor and say that. That would not be accurate.

The fact is that these kinds of audit reports have been prevalent year after

year after year after year. As a Member of the House of Representatives and now a Member of the Senate, I have sat in on those meetings. I met with the fine people who serve on the various NED boards, and they are fine people. Each year they say they will do better and each year they say they will solve the problem, and each year they do not.

We have been through five of the arguments that those people who want to retain NED have made. I think a fair, objective analysis of the facts will show that they do not hold water; that is, unless you are one of the people in the world who thinks we really ought to set up an international political action committee fund to fund elections around the world.

Mr. SARBANES. Will the Senator yield?

Mr. BROWN. I will be happy to yield when I finish. If you are in that group, you see a need for NED. Absent that group, I suspect you have a different view of it.

The question is, why have NED, if granting grants can be done under USIA, and is done under USIA, to a tune that is some seven or eight times what it was last year under NED? Why have NED if that figure will be nearly 10 times what it is this year? Why have NED? What is the difference? We have already noted that the core grantees of NED get more from USIA for their projects than NED hands out to them. Why? Why retain NED?

Mr. President, I do not know how many have read it, but in the United States Advisory Commission on Public Diplomacy in their 1993 report, there is this quote under "Recommendations":

> The Commission recommends that the President direct the National Security Council to conduct an immediate review of U.S. democratic assistance policies—

That is what we are talking about under NED, as well as USAID—

> and procedures leading to the establishment of a coordinating mechanism in the NSC within 6 months.

The fact is, you have two different organizations fulfilling a similar charge and able to fund the same kind of organizations. The question Members have to ask in this vote is not whether or not you believe in democracy; it is whether or not you want to have NED funded separately from USAID.

Let me suggest to the Members that what they ought to cast their vote on is the simple question: How does USAID spend their money differently than NED? I think that is the substance of this vote. They both spend it for democracy. They both spend it to promote democracy with their ideals.

How do they differ? What is the difference? It is not public versus private, because they both can fund private efforts.

Mr. President, the difference is this, and it is simple and basic and goes right to the core of why NED was created in the first place: One. Under NED, the money is allocated without competitive grants, without competition. Under USAID, they compete for grants. In other words, they get a series of proposals that are brought in and the Agency looks at them and picks the best, the ones that they best thought out, the ones that have the best controls, the ones that fit foreign policy the best. They have a variety of standards, but under AID, they pick the best ones.

Under NED, for 70 percent of the money, there is no competition. If you believe the competition among ideas and projects is good, you will want funding for democracy programs USAID. If you do not want to come through competition, you would favor NED. That is not HANK BROWN speaking, those are the facts; that is reality; that is the statute that controls USAID.

The second difference is, money spent under USAID has to follow pricing principles as set forth by Federal statute and regulations for the U.S. Government.

There are guidelines that we have enacted to protect the taxpayers. They control the cost the Government can pay for equipment. That was put in the law and regulation, I assume, to deal with an abuse where people went out and paid too much for equipment, and they put a limit on how much you can spend on that equipment. Furthermore, it controls the amount of rent that can be paid by a Government entity.

Incidentally, the rents of the Members of this Chamber are controlled by this guideline. There is a limit on how much can be spent in your hometown or home State. You cannot exceed the guidelines.

We have put into statute—when I say "we," I mean the Congress has put into statute—a series of policies with regard to pricing. Those pricing principles limit how much can be spent for various items as they are purchased and they are meant to safeguard the taxpayer.

That is a second difference, the first being competition—there is none for 70 percent of the money under NED—the second being pricing principles. Under NED, grantees get the money without having to follow all of the Federal Government's pricing principles.

Is anyone here comfortable with that? Does anyone think it makes sense to have one standard for everyone in the world and a different standard for NED? Maybe it does, but I don't think so.

The third difference is this. There is a maximum that can be spent for overhead under a USAID grant. NED does not operate under the same legal restrictions.

That is right. A reason to send money to NED is, one, you might avoid limits on overhead. And two, you might avoid pricing principles. And, three, you might avoid competition under a NED grant.

There are some other rectrictions the core grantees avoid under an NEO grant. The difference between the two is you have to live by guidelines and safeguards under USAID and not under NED. That is the difference. That is why NED was created, to avoid those limits.

Members can take their choice when they vote on this, but this is not a question of democracy. It is a question of whether we empower the powerful in this country to get around statutes and safeguards. It is a question of whether you let the people who are the leaders of the Republican Party and the leaders of the Democrat Party and the leaders of the big unions and the leaders of the big corporations have special rules for themselves, that is what this is about.

To talk about this as a debate of democracy is absurd. It is absurd. This is special treatment for the big boys. That is what this was created to do. That is why NED was set up: to avoid competition for funds.

Mr. President, Members of this body have not properly investigated what NED is all about. NED is about special rules for the insiders. NED is about a way to avoid pricing principles and a way to avoid limits on overhead and a way to avoid the competition of ideas. That is what NED is about. It is not about funding democracy, because we do much more of it under USAID.

Mr. President, I wish to tell this group why I oppose NED, and why I have stood up to it, and why I do not care if we only get two votes or three votes; I am going to keep this fight going.

I believe NED is dangerous for this reason: it is pork barrel training. It is training for the sickness that has brought this country this deficit. Let me be specific.

The classic way we get programs passed in this Chamber is not because everybody likes a particular program. We do not have a majority of this body who thinks bees will not be interested in flowers if we do not have a honey subsidy. We do not have a majority in this Chamber who honestly believes you need a tobacco loan program at the same time you have a program to urge people not to use tobacco. Those are jokes. Those are ludicrous.

We have those programs, Mr. President, I submit to you and I submit to every Member of this Chamber, because of pork barrel spending and logrolling. And the system works this way. You vote for my program, and I will vote for your program.

Yes, I know there are problems with the honey program. But if I do not vote for the honey program, someone will say you may not vote for my program,

or you may not vote for the tobacco loan program.

The problem with American spending has been that we have allowed a system to develop where Members of Congress trade votes. We have allowed a system to develop where Members in their own heart and their own conscience do not believe that a particular expenditure is good, but they have to support it or they will not get their expenditure.

Anyone who has watched a public works bill go through the House of Representatives understands what I mean. Anyone who has voted against one of those pork barrel bills and then seen what their district gets the next time knows what I mean.

The problem with NED is that what it does, Mr. President, is train people in the principles of pork barrel, logrolling politics, and that is what I do not like about it. That is what I think is fundamentally wrong about it.

The truth is people in the Democratic Party and in the Republican Party wanted the money. People in the Chamber of Commerce and in unions wanted the money. I do not blame them. That does not set them apart from the rest of the country or the rest of the world. Lots of people want money. But they asked themselves, how do we get the money without having to competitively bid for it, without having to live within the Federal guidelines, without having to live within limits on overhead and pricing and all kinds of other controls? How do we do it?

Somebody figured it out. What they figured out, Mr. President, was that if we all get together, if Republicans and Democrats get together—they may differ on whether Democratic spending is good or they may differ because they do not like Republican spending, but if we get together and Republicans support spending for Democrats, Republicans will get their money. And if Democrats support spending for Republicans, Democrats will get their money. And if unions support spending for the Chamber of Commerce, the unions will get their money. And if the Chamber of Commerce will sign off on the Republican and the Democrat and the union spending, they will get their money.

The problem with NED is it teaches our political parties to participate in the pork barrel, logrolling schemes that have almost destroyed the finances of this Nation. That is what is wrong with it.

Mr. President, what was wrong with this proposal when a President who I deeply respect stood up and asked for it was that the President, on the one hand, was talking about reducing the deficit and cutting programs and, with the other hand, was proposing a new spending program that broke the rules in terms of protecting spending and ensuring wise expenditures.

I have watched this program over a decade. I have listened to the managers talk about how next year they are going to avoid the problems that have come out in the audits.

This is not the first year where we have had problems with first-class air fare that is supposedly restricted but yet the offenders still were funded. This is not the first year we have had problems with regard to purchase of alcohol or parties but yet the grantees were funded the following year.

Mr. President, the very reason NED exists is to avoid the guidelines that exist if the grant comes through the USAID. I believe for my political party, for the Republican Party, it is a tragedy that the leaders of my party participate in it. I think they give up the moral standing that is necessary to stand up to wasteful spending in this Nation. I believe by participating in a project where you sign off on other people's waste you lose the moral standing to stand up in this country and stop the progress of the deficit.

Mr. President, I am under no illusions. This provision has been lobbied by the best there are on both sides of the aisle. This bill has had assistance that goes beyond my poor power to convey thoughts and ideas on this floor. This bill has involved many people in good projects—good projects—because I believe NED has participated in good projects. And I am sure they will want to share their view of those good projects.

But, Mr. President, this is wrong. It is wrong to unite the parties of this country in a scheme that raids the Treasury. And the very union of the parties in that effort, the very union of the political parties in an effort to avoid reasonable constraints on spending and reasonable guidelines for protection of the public is wrong.

This issue will not go away. I think it is part and parcel of the process we have to go through as a nation, to once and for all find a way to stop the logrolling, pork-barrel process that has nearly brought this beloved Nation to its knees.

Mr. President, I ask unanimous consent that several articles be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 14, 1989]

U.S. GROUP AIDED ARIAS' COSTA RICA FOES

(By Robert S. Greensberger)

WASHINGTON.—For much of the past three years, the National Endowment for Democracy, which Congress created to nurture political freedom around the world, has helped fight a Republican grudge match against the president of a democratic nation—tiny Costa Rica.

The funding of a group with strong ties to Costa Rica's main opposition party was continued until last July and produced strange bedfellows. Another donor to the Costa Rican opposition: Panamanian strongman Manuel Noriega. According to a deposition given to a Senate Foreign Relations subcommittee last June by Jose Blandon, a former Panamanian official, Gen. Noriega gave the opposition group's candidate $500,000 in 1985.

While one wing of the National Endowment was shoring up the Costa Rican opposition, another was touting Costa Rica as a model of democratic stability. Now, President Bush plans to visit Costa Rica later this month to help celebrate 100 years of Costa Rican democracy.

Costa Rican President Oscar Arias was never the Reagan administration's favorite Latin American leader. He refused to support the White House's war against leftist Nicaragua and won a Nobel Peace Prize for a plan that pulled the rug from under the U.S.-backed Contra effort.

DOCUMENTS ARE CITED

Documents that surfaced here this week show that at the same time that Mr. Arias was falling out of favor with the White House, the NED's Republican wing—the endowment has parts from both major U.S. political parties—began funding a political association with close ties to Mr. Arias's political opponents. Since 1986, NED has spent $434,000 on several projects, including a magazine that criticized Mr. Arias's peace plan and said it sapped the vitality of the nation.

The executive director of the association, Rafael Calderon, ran against Mr. Arias in 1986 and is the opposition candidate in next February's election.

The decision to launch a program in Costa Rica was a strange one for the budget-strapped NED. Costa Rica's democratic roots run deeper than almost anywhere else in the Western Hemisphere.

Last summer, as Congress got wind of the Costa Rican funding and began making quiet inquiries, NED reconsidered the situation and discounted the project. "It has been reoriented," says Keith Schuette, president of NED's Republican affiliate, the National Republican Institute for International Affairs.

The NED was funded by Congress in 1984 to encourage democratic institutions around the world. In addition to its Republican and Democratic wings. It has two other elements: the AFL-CIO's Free Trade Union Institute and the Center for International Private Enterprise, an affiliate of the U.S. Chamber of Commerce.

Carl Gershman, president of the endowment, says that his board was aware of the Costa Rica project. Indeed, he says, the GOP wing submitted detailed proposals. He said the board gives each of the four branches autonomy to develop programs, "as long as they operate clearly within the framework of our law," a test he says was met by the GOP wing. He adds that the Republican wing tends to "establish relations with institutions that associate with political parties," while the Democrats "have pursued a more multipartisan approach."

'HAM IN THE SANDWICH'

Mr. Schuette insists that he was only trying to help Costa Rica, which he calls "the ham in the sandwich between the two worst neighbors in the hemisphere." Wedged on the Central American isthmus between Nicaragua and Panama. Costa Rica needs protection from those totalitarian nations, he argues.

"Attempts are made to subvert their democracy," says Mr. Schuette, adding: "It's our position that no democratic system ought to be taken for granted in Latin America despite the length of its democratic history."

Yesterday, the Costa Rican Embassy in Washington didn't have any immediate comment.

Nobody is contending that the endowment broke the law. But some critics say that it came close. "They may technically have been within the law, but I felt this clearly violated the spirit," said Rep. Stephen Solarz, a New York Democrat. "The whole purpose of NED is to facilitate the emergence of democracy where it doesn't exist and preserve it where it does exist. In Costa Rica, neither of these applies."

Nonetheless, the NED seems to have stepped into the thick of Costa Rican politics. Documents supplied by a Costa Rican source show close ties between the Association for the Defense of Costa Rican Liberty and Democracy, which NED funded, and the opposition Social Christian Party. According to these documents, the association was incorporated in 1984 by an attorney, Luis Fishman, a Social Christian congressman and top campaign adviser to Mr. Calderon. The documents also list as top officials of the association several Social Christian officials and senior advisers to Mr. Calderon.

NED funds also supported the magazine "Fragua," or Forge. An editorial in the magazine's first issue, dated September 1986, attacked Mr. Arias's "political amateurism," and asserted that his peace plan for Central America was "impugning the national virility" of Costa Rica.

Such activities don't appear to meet the standard set in the endowment's "statement of principles and objectives," which mandated that the organization "will not pick and choose among the democratic competitors in countries where such competition is possible."

Mr. Schuette says that NED's GOP wing openly supports groups that are affiliated with political parties in several countries, including Bolivia, Argentina and Columbia. He says that "we watch what's in" the publication in Costa Rica but "don't exercise editorial control." He adds that his group decided to withdraw from activities in Costa Rica last July because it didn't want to become embroiled in domestic politics, as Costa Rica's February election approaches.

BUDGET OF $15.8 MILLION

Even critics of NED's Costa Rica activities characterize them as an aberration from the endowment's usual good work. They note that the small organization, whose fiscal 1989 budget is $15.8 million, is playing a valuable role in fostering democracy around the world. Poland's Solidarity union received regular funding from NED before its breathtaking electoral victory earlier this year. And the organization has played an important supporting role as Chile makes the transition to democracy from military dictatorship.

"They've stopped the Costa Rica project, and I would write this off as part of the growing pains of an organization that is new in the American political system," concludes Rep. Solarz.

[From the New York Times, June 10, 1990]

U.S. GRANT TO 2 CZECH PARTIES IS CALLED UNFAIR INTERFERENCE

(By Stephen Engelberg)

BRATISLAVA, CZECHOSLOVAKIA, June 9.—An American attempt to foster democracy is being denounced here as unfair interference favoring the political parties closet to President Vaclav Havel.

At issue is $400,000 that the National Endowment for Democracy in Washington has given to the Civic Forum and the Public Against Violence, the organizations that coalesced last November to lead the revolution against Communist rule. Both are now political parties running full slates of candidates in this country's first free elections in 42 years, which began Friday.

It is the role of the National Endowment for Democracy to use Government appropriations to carry out a mandate of encouraging the spread of democratic ideals around the world while avoiding partisanship in foreign campaigns.

In Washington, Carl Gershman, president of the National Endowment, said the two groups were not political parties in January and March, at the time the money was allotted. He said the grant was intended to support "broad civic participation," not campaigning.

"This process developed after grants were approved and made," Mr. Gershman said. "It is an evolving situation. It has been our view that we do not side with one part or another."

DEMANDING AN EQUAL SHARE

But Jan Carnogursky, the chairman of the Christian Democratic Movement in Slovakia, said that was precisely what the endowment had done in this country. "What the American Government does is its business, but I ask why the American Government gave money to just one or two among 23," Mr. Carnogursky said in reference to the parties that are competing in the elections.

Pavel Sremer, deputy chairman of the Green Party in Slovakia, said the American grant was "an injustice," adding, "All the parties should receive an equal share."

Civic Forum is based in the western, Czech part of the country while Public Against Violence is in the east, in Slovakia. Like the other parties here, the two organizations have broadcast a complement of television ads for their candidates and have put up posters bearing their emblems in nearly every village and city in the country.

Juraj Mihalik, a member of the coordinating committee for Public Against Violence, said the $175,000 provided to his group by the National Endowment had been used to buy computers, fax machines and copiers that were helpful in the campaign. He said the computer system had been used by Public Against violence to analyze its political polling, which shows that the organization's candidates have registered a strong surge in recent weeks.

Mr. Mihalik said he picked up the first American check on April 10, after the campaign had gotten under way here.

After the election, Mr. Mihalik said, Public Against Violence will probably be split, with one part remaining a political party and the other defining itself as a social movement that will concentrate on projects like teaching English and helping the poor.

The computers and other equipment, which arrived near the end of this year's campaign, would be more useful in two years, he said, when the country is scheduled to hold its next round of elections.

Although Mr. Gershman said the endowment's goal was not to support campaigning, a United States Government budget document from January said the purpose of the National Endowment grant to the Civic Forum was to "provide the coordinating offices of the Civic Forum in Prague and its regional centers with needed technical equipment, such as facsimile machines, photocopiers and computer systems, in order for them to prepare for the June 8 elections and consolidate their position as Czechoslovakia's premier democratic movement."

The document was obtained by John Hvasta, an Oakton, Va., public relations consultant and Slovak native who has returned here to assist the Christian Democrats in the elections.

The issue of American aid arises against a backdrop of extensive foreign involvement in the elections here. Mr. Carnogursky's party has received assistance from other Christian Democratic parties in Europe. Canadian and American Slovaks have come here as volunteers for a variety of parties.

Larry Kaska, A Winnipeg native who has worked for the Canadian Conservative Party for 12 years and who is now helping the Christian Democrats, said that in his hometown alone, 50 Slovak families had raised $3,000 for the party.

Mr. Kaska said other assistance from abroad included large supplies of paper as well as the services of two campaign experts from Britain's Conservative Party; 84 personal computers from Germany's Christian Democrats, which arrived too late to be of use, and a minivan stocked with a personal computer and a copier from Belgium's Christian Democrats.

[From the London Financial Times, Dec. 9, 1985]

BRITONS GET REAGAN "SLUSH MONEY"

(By David Pallister and Andy Weir)

President Reagan's controversial fund to "promote democracy" round the world—which has secretly channelled money to rightwing and anti-Communist groups—has contributed $187,000 to organisations in Britain.

The National Endowment for Democracy with an $18 million budget, has been criticised in Congress as a "slush fund operating under a cloak of secrecy" and its critics have claimed that it is being used to meddle in affairs of foreign countries, particularly in Central America.

It was set up in 1983, with Congressional approval, after President Reagan's speech before the British Parliament in June 1982, in which he pledged a "crusade for freedom that will engage the faith and fortitude of the next generation." The endowment fund can be seen as a marginally more open continuation of the CIA's covert operations of the fifties and sixties.

Information about British recipients, some of whom were ignorant of the source of the money, has been seen by the Guardian, a week after the French leftwing paper Liberation revealed that 830,000 had secretly been paid out to the rightwing trade union, Force Ouvriere.

According to the endowment's internal annual report to September 1984, the Labour Committee for Transatlantic Understanding, received $49,000, which was used to finance a delegation of about 12 people to a seminar on western defence in Brussels in May 1984. The committee is the labour section of the British Atlantic Committee, which lobbies for Nato among European trade unionists.

It has no connection with the Labour Party but its members include figures from the Labour and trade union rightwing, including Lord Chappie, Mr. Roy Mason, and Lord Stewart, former Labour foreign secretary. One of its American vice-presidents, Mr. Lane Kirkland, is on NED's board of directors.

Funding of the committee, founded in 1976 by a former US embassy labour attaché. Mr. Joseph Godson, remained a secret until 1980, when the British government said that Nato had given £32,000 over the previous four years. Mr. Godson told the Guardian that he

understood the money had come from the American Youth Council. He had complained to the endowment fund for its inaccuracy, but "I don't object to anything which funds a good cause."

The largest direct grant of $129,000 went to Soviet Labour Review, an anti-Communist newsletter on Soviet law and working conditions, based in south London. It was established in 1983 by a group of Russian émigrés connected to the rightwing political party, Narodny Trudovy Soyuz (NTS), which claims to have had secret cells in the Soviet Union since the 1930s, and smuggles banned literature.

The grant was negotiated by the review's New York based publishers, the Russian Research Foundation. Its editor, Mr. George Miller whose father Boris, is an emigré is the UK representative of NTS. Mr. Miller told the Guardian that the NTS believed in a "Catholic-based. Thatcher-type classical liberalism."

A grant of $10,000 went to the actors' union. Equity, to pay for three of its leaders to attend a conference in Washington last November to discuss the exchange of stage actors. Mr. Peter Plouvier, Equity general secretary and one of the three delegates said they had been invited by Actors' Equity on behalf of the department of professional employees of the AFL–CIO, the US equivalent of the TUC. He appreciated that fares and hotel expenses came from the US government but was unaware that they had been funded by the NED.

Seventy-five per cent of NED's budget is administered by the AFL–CIO, whose deputy director of international affairs is Mr. Irving Brown. Whatever its differences with President Reagan over domestic issues, the AFL–CIO has for many years been one of the most hawkish supporters of conservative American foreign policy.

After the second world war, Mr. Irving was instrumental in the fostering moderate, anti-Communist unions in Europe and later in Africa. He has always denied allegations that he works for the CIA. But in 1967, Mr. Tom Braden, who was the CIA's head of international organizations from 1950 to 1954 and ran the clandestine services, wrote in the Saturday Evening Post: "It was my idea to give $15,000 to Irving Brown. He needed it to pay of his strong-arm squad in Mediterranean ports, so that American suppliers could be unloaded against the opposition of Communist Dock workers.".

NED ran into controversy almost from the beginning. As a private institution, even with Congressional money, it is not subject to public accountability or scrutiny under the Freedom of Information Act. A row broke out in June last year when it was revealed that it had covertly funded a union rally in support of America's favoured candidate in the Panama elections.

In a leaked secret cable the US ambassador, Mr. James E. Biggs, said: "The embassy requests that this hairbrained project be abandoned before it hits the fan." Mr. Biggs later recanted his opposition.

[From the Washington Post, Nov. 28, 1985]

RIGHTIST FRENCH STUDENTS GET U.S. ANTI-RED AID

PARIS, Nov. 27—Operators of a U.S. government-financed fund designed to resist totalitarianism have distributed some $1.4 million to a right-wing trade union and a student group opposing France's Socialist government, a newspaper said today.

The Socialist newspaper Liberation said the National Endowment for Democracy, created with bipartisan support last year by the Reagan administration to foster democracy in "totalitarian" states or nations where "democracy is still fragile," directed more than $1.5 million of its $3.3 million European spending into France.

The newspaper said $830,000 was given to Force Ouvriere, or Workers Force, which broke with the communist-led Confederation Generale du Travail during the Cold War.

The National Inter-University Union, a right-wing student group, was given another $575,000 and four smaller anticommunist groups received a total of $157,000, the newspaper said.

A spokesman for Force Ouvriere acknowledged receiving the money but said most of it was used to help settle refugees from East Bloc countries in France.

But the Free Trade Union Institute, the AFL-CIO's European affiliate through which the money was funneled, told the endowment that some funds would be used for "the struggle against antidemocratic forces, the organization of factions, teaching organizational techniques and techniques for staging demonstrations."

The student group is allied with the Rally for the Republic, France's main conservative opposition party, and has led numerous antigovernment protests.

The French government did not comment on the Liberation article but he U.S. Embassy called the fund "a private, nonprofit, nongovernmental organization which utilizes funds appropriated by the U.S. Congress to support the efforts of people everywhere to build democratic institutions."

"There is nothing covert or secretive about the activities or funding of the NED," it said.

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The newspaper quoted a letter from a Free Trade Union Institute official to endowment President Carl Gersham, however, saying the donations were kept secret because "the beneficiaries of these funds could be put in danger or hindered if these payments were made public."

The endowment, with $18 million from the U.S. government, has also funded anticommunist groups in Latin America—notably Chile, Nicaragua and Brazil—and Asia, particularly the Philippines, the newspaper said.

Relations were strained between the Reagan administration and the Socialist government of President Francois Mitterrand until mid-1984 when the Socialists split with their Communist partners in Parliament, dropping four Communist ministers from the Cabinet.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I just listened, as my colleagues did, to the fire and brimstone morality about the deficit. I suppose I could not help but wonder why that same language was not applied by the same Senator yesterday on a wool and mohair vote, when we voted to cut the absurd subsidy for $675 million to the wool farmers to provide wool for uniforms that are not made in wool anymore.

Mr. BUMPERS. Mr. President, will the Senator yield for a question? I know the Senator has waited for a long time.

Mr. KERRY. I yield for a question.

Mr. BUMPERS. I wonder if the distinguished floor managers would be interested in entering into a time agreement. We have been going here now for well over 2 hours. I know the Senator from South Carolina wants to get a couple more votes in after this one.

Mr. McCAIN. I am not interested in a time agreement. A lot of loose talk has been going on on this floor that has to be responded to.

Mr. KERRY. Mr. President, again, there really ought to be an air of reality about what we are talking about here on the floor of the U.S. Senate. We have just heard $35 million, for one of the best investments in democracy building, referred to as absurd.

It has been suggested that to equate this to democracy building is somehow absurd.

It has been suggested that to spend $35 million on some projects, that I will talk about in a few moments, is not democracy building at all.

And it has been suggested, most extraordinarily, that this is pork barrel, when the kind of vote that I talked about a moment ago for a subsidy that does not subsidize anything of strategic value to the United States 30 years after it was put in place is somehow not pork barrel.

It becomes George Orwell to the nth degree in terms of meaningless rhetoric. Thirty-five million dollars is what we are looking for, $35 million compared to the $50 million that the President wanted, and that the President made specific cuts to provide for; $35 million for democracy-building.

Compare that, Mr. President, to $45 million for one F–15 fighter; $30 million for one SH–60 helicopter; $23 million for one F–16, just one F–16. Yet we are talking about projects that have an impact on people's lives on a daily basis in countries all around the world.

There has been, as the Senator from Arizona just said, a lot of loose rhetoric here on the floor, a lot of very

quick distortion of reality. Let us take the IG report as an example. The fact is that NED is one of the most audited entities that we have today. It is audited by four committees in the Congress, it is audited by a GAO, and by USIA's Inspector General. These auditors have indeed come up with a number of suggestions, which NED is currently implementing.

We heard the Senator from North Dakota quote from the IG report of 1993. He made a big deal out of holding it up and saying, this looks like 1993. Well, indeed, the face page says March 31, 1993. But the findings which he read from the inside of this report were not 1993 findings. What he read from was the summary that the IG used of prior things that had been found to be wrong.

For instance, on page 4 it says NED did not ensure that guarantees adequately verified costs. Well that was a change made in a prior GAO report. What the IG found in 1993 was that—"in addition NED's new procedures, if effectively implemented, should improve NED's capabilities for financial oversight."

Let me just go into a little detail about what NED has done in the course of the last couple of years.

The Senator from North Dakota read from part of the IG's report that reviewed NED's activities at a time when the GAO was critical, between 1988 and 1990. GAO issued its report in March 1991. Since then, NED has responded to the concerns of the GAO by issuing a complete blueprint for action to improve NED's management of grants. In January of 1992 the GAO issued another report taking note of the steps that NED had initiated and stating that if implemented effectively, they will improve NED's way, and indeed they are improving performance.

Since that time, Mr. President, NED has taken four additional steps in different areas: First, there is complete strategic planning and prioritization. NED issued, in January of 1992, a 3- to 5-year strategy, and a priorities document targeting specific funding levels per region and subregion.

Second, it instituted an evaluation program. NED hired an evaluation coordinator to ensure that all program proposals contained detailed evaluation plans, and it also started conducting independent evaluations through the hiring of independent contractors. Two of these, in Nigeria and Romania have already been done.

Third, NED implemented a series of financial controls and grant management reforms, including adding staff to increase the monitoring capability with respect to all of the grant terms and conditions.

And finally, they have addressed the problem of audits. NED has added audit staff, and it has lowered the threshold of grants to be audited so that many more grants are brought in for the auditing process.

So if we are really going to deal with reality here—I noticed that both Senators were sort of quick to dismiss this—let us deal with reality. The reality is that the IG report and the current accountability process has increased tenfold, and they are, in fact, instituting all of the reforms for which they were cited previously for negligence.

The Senator from Colorado talked about Panama, spent a lot of time talking about Panama. Well, that was under the Presidency of Ronald Reagan when Panama was something of an obsession and a problem. We will recall that NED did institute a bad grant. But the reality is that the law prohibits any such undertaking today, and any of those kinds of grants have to first be cleared by the State Department. Since they are prohibited by law they would obviously, absent the pressure of a President who wants to circumvent the law, not be allowed.

So again, you have charges made to try to denigrate an entire process. First-class airfare, Mr. President is one of them. I think you can count very few instances where first-class airfare has been used. In fact, I believe NED personnel can only go business class. If and when first-class airfare has been used, perhaps Members of the Congress ought to remember that most of the people involved in NED are donating their time. These are people with important jobs, in important sectors of the economy, none of whom are paid for what they do. They go abroad, they deliver hundreds of thousands of consulting dollars worth of effort no one would question that they are entitled to business class. Many would say even first class.

How many Members of the U.S. Congress, I would ask, how many of those who are going to vote against this, have flown first class on the U.S. Government on some occasion on a flight that is more than 14 hours? If you have a flight that is more than 14 hours, intercontinental, and you are going over for 4 days of work, indeed people have sometimes been upgraded to first class so that they can get some work done when they get there, rather than being completely exhausted by the process of taking their time in going there.

But that is another red herring. The fact is that most of the people involved with NED fly coach or business, most of them give their time voluntarily, and most of them have extraordinary accomplishments to show for it in countries all across the globe.

Let me just talk about that for a minute.

I am happy to deal with this issue on the very terms that the Senator from Colorado and the Senator from North Dakota, I presume—I have not heard him talk—but the Senator from Arkansas wants to talk about it.

Does NED accomplish what it sets out to do? Is the dollar well spent? Is it valuable?

Mr. President, we have spent trillions of dollars throughout the cold war in order to have the opportunity to accomplish what we perhaps have the opportunity to accomplish at this point in history.

We stand around and make a lot of great speeches about the impact of the falling of the Berlin Wall, about the rights of human beings on this planet, and about the opportunities for democracy, about the capacity to build democracy. And here we are with a proven entity that, for $35 million a year, has the capacity to provide a real return on democracy building, and people hesitate and say, no, I would rather have the SH Helicopter or $10 million for F-18's. I do not think you will see folks voting against those items.

Mr. President, what do we get for this? Let me share with my colleagues a couple of examples. First of all, we heard a lot of talk about AID. NED gets to countries that AID does not and cannot serve, such as Burma, Vietnam—places where we do not have a relationship that allows us to work. Let me just share this with colleagues so they can make their own judgment on whether they think these are dollars well spent. In the Middle East, the total amount allocated for NED programs in fiscal year 1993 was $1.550 million. This is for the entire region, including the Arab Middle East, North Africa, Turkey, and Iran. These grants covered a broad array of programs, including the training of election monitors in Yemen; conduct of a survey of the evolving electoral process in Oman; a democracy education center and a business education center in Egypt; a conflict resolution center in Lebanon; a training program for Arab female workers in the Magreb; the publication of the Iran Teacher's Association Journal on human rights and democracy; the conduct of opinion surveys in Jordan, tied to the transition process there, an issue of no small consequence to the United States in terms of the commitment we make in the region.

In addition to all of that, the Endowment supported the Free Iraq Foundation which, for the first time, is spreading the concept of liberal democracy among Iraqis living outside and also inside the country.

Just this one project, according to Kanan Makiya, the courageous author of "Republic of Fear" and "Cruelty in Silence", has made it possible for Iraqi writers and human rights activists to get thousands of pamphlets into Iraq, communicating ideas which have long been banned and sealed off from the populace.

He writes:

Reports still reach me of the effect of this kind of work in creating a new and enriching

climate of ideas on the issues of democracy, toleration of difference, secularism, and the imperative for central focus on human rights and the building of a new order in Iraq. I know for a fact none of this would have been possible without the backing of the National Endowment for Democracy."

Mr. President, the Endowment's programs in the Middle East are just a beginning. And the fact is that they could easily absorb in the next year three or four times the $1.5 million being spent there now.

In Russia, in Ukraine, NED was able to award only $484,000 for programs supporting newspapers and publications in Russia and Ukraine that were independent of the old party apparatus. I ask my colleagues, is that money worthwhile? We spent trillions of dollars to build systems to prevent the former Soviet Union from invading Europe, to support NATO, to encourage people to emigrate, to fight for human rights in that country. Here we are with $484,000 to give people who want to build democracy and the capacity to have an instrument of communication that is independent from the old party apparatus.

You can talk to any of the leaders. I heard the Senator from Colorado say, "This is a tough target." It is a tough target. It ought to be a tough target. The reason is there are Presidents emeritus of both parties who support this program; they do not get money from it directly. None of the people who contribute their time to this get paid. This is not a boondoggle for them. The money goes to support the indigenous effort within the country. And the question is whether or not we are going to keep an effort alive in many of these countries that has literally saved lives in those countries. Why do you think it is that Lech Walesa says support this program, or Vaclav Havel says this program is critical? Why does the leader of Latvia say, "This helped us reach independence." Why is it in Vietnam today that there is increasing religious freedom, and the dissidents have a voice? Because they are funded by this program because we have an embargo that does not allow any other program to.

Some have tried to suggest that AID does what NED does. But AID does not. The whole point is that AID cannot work in any of these countries, like Vietnam on which we have an embargo. NED can do things in countries that AID cannot. AID is prohibited from operating in countries that are in arrears, such as Burma. AID is prohibited from operating in countries where military coups have taken place. We can count those, and probably half of the countries of the world have seen one coup or another at some time. AID cannot operate where nonproliferation prohibitions are not in place. They cannot operate in embargoed countries, such as Vietnam, Libya, Iraq, Chad. All of those places need democratic reform, Mr. President, and all of those places only get their input through an organization such as NED.

Mr. President, I will give an example regarding Burma: In fiscal year 1993, the total funding NED was able to allocate to programs in Burma—one of the world's harshest dictatorships—was $225,000. That funding was used to provide infrastructure support to the National League for Democracy, which is the exiled democracy movement headed by the Nobel Peace Laureate. Aung San Suu Kyi.

NED was able to support human rights radio broadcasting into Burma by the exiled democratic movement. That is assistance that is currently enabling the exiled National Coalition Government of the Union of Burma to inform the international community about conditions in that country.

The Prime Minister of the National Coalition Government, Dr. Sein Win, recently wrote that NED support has enabled the democratic forces of Burma to achieve much "progress and success" and "could make the difference between total victory and defeat."

Mr. President, we are talking about $225,000 for something that might make the difference between total victory and defeat in one of the worst dictatorships on this planet. I just find it hard to believe that when you compare this with the military hardware we flip out of here in $30 million slugs, we are not willing to heed the advice of countless world leaders who have lived through the experience of what this kind of democracy building effort can provide.

Mr. HOLLINGS. Mr. President, will the distinguished Senator from Massachusetts yield?

Mr. KERRY. I yield.

Mr. HOLLINGS. All give me their attention, please.

We have a unanimous consent that we can propound listing the Senators for the times required at the end of which, of course, the distinguished Senator from Arkansas would move to table the committee amendment.

I will make that request: Senator LUGAR, 15 minutes; Senator GRAMM, 10 minutes; Senator DOMENICI, 10 minutes; Senator MACK, 15 minutes; Senator SARBANES, 10 minutes; Senator HATCH, 15 minutes; Senator MCCAIN, 10 minutes; Senator HOLLINGS, 10 minutes; and Senator BUMPERS, 10 minutes.

How much more time does the Senator from Massachusetts require?

Mr. KERRY. Three minutes.

Mr. HOLLINGS. Three minutes.

UNANIMOUS CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the following Senators be recognized to speak for the following time limitations: Senator KERRY of Massachusetts for 5 minutes; Senator LUGAR for 15 minutes; Senator GRAMM for 10 minutes; Senator DOMENICI for 10 minutes; Senator MACK for 15 minutes; Senator SARBANES for 10 minutes; Senator HATCH for 15 minutes; Senator MCCAIN for 10 minutes; Senator HOLLINGS for 10 minutes; and at the conclusion of these speeches, Senator BUMPERS be recognized to speak for 10 minutes, at the conclusion of which he will make a motion to table the committee amendment.

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

Mr. DOMENICI. Mr. President, reserving the right to object, and I will not, Mr. MCCONNELL wanted to be added for 10 minutes.

Mr. HOLLINGS. I amend that to ask Senator MCCONNELL for 10 minutes.

The PRESIDING OFFICER. It is amended accordingly.

Is there any objection?

Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished colleague from Massachusetts.

Mr. KERRY. I thank the distinguished manager of the bill.

Mr. President, I am reaching the point of repetition. We probably all are here.

There is a simple bottom line here. NED is different than USIA. It is different from AID. It is nongovernmental. It is private. It can move rapidly. It has the ability to provide aid to countries that the others do not reach but, far more importantly, Mr. President, notwithstanding problems with startup—and there is not a private agency or private corporation or a public entity in which you cannot find startup problems—when you measure what this effort has done in countries—it is saving lives. It is building democracy. It is engaged in the single most important effort of our entire foreign policy fabric.

The fact is that if you look at the record in Poland, in China, where some efforts have been made, in Chile, in South Africa, in the Middle East, in Russia, there is a NED record of accomplishment, a NED record of accomplishment in elections that have been held, a NED record of accomplishment in publications that have reached people, in communications, in broadcasting, in lives that have been saved, in human rights that have been advocated. And the bottom line is that of all the expenditures we make in this country for defense, this is perhaps one of the most reasonable and the best return on the dollar.

Mr. President, it is not an accident that people like Lech Walesa, Benazir Bhutto and Vaclav Havel, and others all point with urgency to the NED and urge us to keep a program like this alive.

I urge my colleagues to reject what I think is a really misplaced effort to try to save dollars. This does not save dollars. We may in the future face American troops trying to quell a conflict somewhere as a result of failure to spend sufficient effort to build democracy or give people fighting for freedom a chance.

I think it is far better that we spend it on this kind of people-to-people effort on a program that provides assistance at the indigenous level such as this that is privately managed but publicly accounted for.

I urge my colleagues to reject this theory of false savings.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana, Senator LUGAR, is recognized for up to 15 minutes.

Mr. LUGAR. I thank the Chair.

Mr. President, mention has been made about the fall of the Berlin Wall and the end of the cold war. Senators will offer many interpretations as to why this occurred and particularly why it occurred without bloodshed, and why one of the greatest empires in the history of the world fell. Many have suggested correctly that it fell because of the spirit of the people within the former Soviet Union had changed.

Change won. The people sought freedom and tried to manifest that in many ways. I think you can argue that the human spirit is indomitable and freedom always prevails.

But the facts of life are that freedom is helped when there are some outside agencies with tendencies toward freedom and, as a matter of fact, offer good arguments as to how freedom might be achieved.

I suggest, Mr. President, that one of the great turning points in the cold war was Lech Walesa in Poland, and one of the most important reasons why he was successful with the trade union movement, Solidarity, was because the AFL–CIO in this country sent a good number of people to help him, and they did so under the auspices of the National Endowment for Democracy.

This debate has veered off in many directions, and I do not disparage for a moment the diligence of Senators who are deeply concerned, as I am, about deficits and about the budget and about dollars. There is no excuse for any program to misspend money and to do so with impunity as has been alleged.

Mr. President, let me just say—and I think the distinguished Senator from Massachusetts covered these points diligently—audits have been conducted. The affairs of the National Endowment for Democracy are under very careful scrutiny of the U.S. Federal Government. The very audit which has led to most of the commotion today covering a period from 1987 to 1990 covered 350 grants without a single allegation of fraud and abuse—not a single one.

The fact is that questions have been raised with regard to the four institutes and moneys that were misspent have had to be repaid by those groups. Taxpayers of the United States have not lost a dollar. And the small change that was involved will be and was repaid.

Since 1990, affairs have been squared away, and I would testify, Mr. President, that as a member of the Board of the National Endowment for Democracy for the past year, I carefully review, as do the other Board members, each of the proposals before us. We review the audits. We hold accountable all of the people receiving funds.

This is not logrolling, as has been alleged, that somehow Republicans help Democrats or members of the AFL–CIO help the Chamber of Commerce and have special ideas or interests among them. The interest of all four entities is in democracy and in the foreign policy of our country.

And how remarkable it is, Mr. President, that these four institutes could, in fact, cooperate on significant grants because if there is not agreement, the grants do not occur.

There are many occasions on this floor when Republicans and Democrats do not agree. There are many occasions around the Board table of the National Endowment for Democracy in which there is genuine disagreement on how to proceed—or with the Chamber of Commerce or the AFL–CIO. But when all four of us come together and with a majority vote, with eyes wide open, with very considerable competitive scrutiny, then things go forward and are successfully audited.

That just has to be stated, Mr. President, in a very straightforward way. There should not be left for a moment the thought that there is logrolling, malfeasance, or Republicans and Democrats trying to help each other out in some nefarious way. Quite to the contrary. The checks and balances are built into the Board.

And I am saying, Mr. President, from direct first-hand eyewitness, that having attended all the Board's meetings during my tenure and seen all of the grants, I think having a fair idea about everything that has occurred during that year, and I believe that the administration of NED is exemplary.

Mr. President, even if it is exemplary, why is it needed? I cited Lech Walesa in Poland and the cold war. The fact is many activities occurred during the cold war, not only in Poland but in Eastern European countries, and more recently after the cold war period in each of these countries again.

One of the strange things, Mr. President, is that many Americans having watched the fall of the Berlin Wall and having exalted in the liberation of Poland, Czechoslovakia, Hungary, Romania, and Bulgaria, countries all behind the Iron Curtain, our adversaries a short time ago, with hundreds of thousands of Americans looking down the gun barrels of thousands and thousands of Warsaw Pact countries right in the center of Europe, all of this was dissipated simply because the people involved in these countries decided they wanted to try democracy. And they found out about it in many ways. But I would testify among the most effective were agencies sponsored by the very small sums of money involved in the National Endowment for Democracy. They found out through underground newspapers, through persons who risked their lives many times to go into harm's way and organize parties to bring pluralism where there had been one party. This was and is not an easy thing to do.

The question always is why should we worry about Poland or Hungary or Czechoslovakia now? They are free. The Iron Curtain is down. The Soviet Union is gone. But there is no road map on how a country goes from totalitarianism to democracy or to market economies. As a matter of fact, it is not really clear that any country has ever made it. There are some good candidates for potential success.

Because we have stayed the course, Poland might make it. Because we have stayed the course, Hungary might make it, and the Czechs might make it. They are all good candidates, but they are not there yet.

Now, there are other agencies of the U.S. Government that help in these programs, but none as effectively, in my judgment, as the concerted weight of the independent Republican Institute, the Democratic Institute, the Chamber of Commerce, and the labor unions of this country, working together in a united front.

One of the extraordinary things about this argument against the National Endowment is that somehow or another there is something collusive and evil about this cooperation; that somehow these four entities working together must necessarily mean malfeasance and difficulty.

What an extraordinary argument, Mr. President. At a time in which we are stressing diversity in our society, stressing cooperation, and a sense of community, as opposed to divisiveness, for 10 years that these entities have gotten together and done some remarkable things for this country. Members are here on the floor suggesting that the whole endeavor is hardly worth the candle; that the money might be saved; that, in fact, the persons involved were engaged in logrolling, if not worse.

Now, the agenda is still long, Mr. President. I would suggest, because we have just seen Nelson Mandela in this Capitol a short time ago, that he comes with a common request. He is suggesting that democracy is far from certain in South Africa, whatever the debates here on this floor, and there have been some good ones. He is suggesting that money is going to have to be spent to inform persons how democracy might work in that country, where the polling stations might be, and how you go about running, managing, and participating in the election process.

We take these things for granted, Mr. President. We are one the few countries

that do. We have been, in the National Endowment for Democracy, in this business for a long time.

We can help Nelson Mandela and President De Klerk and others because of the small things like printing ballot paper so you cannot duplicate it; or even providing a stamp for the hand helps to make sure a person does not vote twice; or a computerized roll of the voters, particularly if there has never been one before; or all the registration procedures that might lead to some confidence in the election process; or the publication of the arguments of the candidates. All this implies not only a free press, but also some ink and paper on which to print it; or that some radio or television broadcast might be heard.

One of the extraordinary things that might have occurred—and NED tried very hard to bring it about—would have been support of a candidate in the recent election for President of Serbia. There was a suggestion today that we ought not to be involved in such endeavors or that some people would be unhappy if other people were involved in our elections.

But it was suggested by the NED that it would be helpful, as a matter of fact, that a state-controlled television, now controlled by President Milosevic, might be countered by television programs that offered an objective view of what was happening in Serbia; specifically, that Serbians were at war in Bosnia and that they were potentially at war in Kosovo. The suggestion came that, in fact, even independent papers being published in Serbia might be given an audience among Serbian-Americans in the United States.

One of the strange things, Mr. President, is that others play this game somewhat more adeptly than we do. Right now, Serbian broadcast networks supporting Milosevic are heard for 12 hours a day in the United States of America by many Serbians who believe that is the truth in Serbia, when the Serbian paper Borba, the independent press, cannot be sold in the United States because the international embargo prevents the sale of products of Yugoslavia in the United States. Things are topsy-turvy.

The National Endowment for Democracy gets interested in those kinds of nitty-gritty issues, Mr. President, issues that have everything to do with how our foreign policy might work out.

It might have worked out that Mr. Milan Panic would have won the election against Mr. Milosevic if there had been a free and fair election, following a pattern in which many in this body have participated through observing elections sponsored by our Government or the NED over the years.

The recent referenda in Russia was very important, as our President has pointed out, and was certainly on the bubble as he went to Vancouver prior to April 25. It was very important to Boris Yeltsin and to the continuation of democracy in Russia.

Their were no possibilities for the rapid observation of that election through AID or through any of the other entities mentioned. It came to pass that the Republican Institute suggested it would pool together dozens of observers, requested by President Yeltsin, to manifest American interest in what was occurring in the interior of Russia, not as an intrusion but in the spirit of observation.

And in a short turnaround time of a very few days, Americans, distinguished people, went to all parts of Russia. And they were well received wherever they went by Russians, who said: The Americans are interested in our democracy, interested in our vote, interested in us. This is a very important point.

I am not saying that those American election observers and others who were there from other countries turned around the vote. Russians voted for themselves, but they voted in ways that were extraordinary, even for Russians observing it.

By a majority vote, they said Russia is on the right track, moving to market economics. And that vote was validated by Americans who said it was a free and fair election. The Russian legislature back in Moscow could not dispute the fact that their people repudiated it and validated Boris Yeltsin and validated his program of market economics, which we believe is very important if we are to have a constructive, working relationship.

Mr. President, normally these projects are undoable. Most people like to see them done.

All I am suggesting is, given the talented Americans who devoted their time and effort to NED and the people that can be called upon by the Republicans, the Democrats, the labor unions, and the Chamber of Commerce, a great deal occurs in the world that needs to be given attention.

NED is involved in the Middle East—very controversial projects. What ought to be the future of democracy in Kuwait, for example? A lot of Americans are interested in that.

NED is doing the heavy lifting to tactfully suggest ways in which the legislature and the Emir and others who are involved might move toward democracy around that area.

It may well be, Mr. President, that the future of foreign policy in the country comes down to how well we deal with this clash of civilization that Samuel Huntington and other people talk about.

For all these reasons, Mr. President, this is a serious issue and an important vote. I am hopeful Senators will support the National Endowment.

The PRESIDING OFFICER. The time allocated to the Senator from Indiana has expired.

Under the previous order, the Senator from Texas was to be recognized. The Senator from New Mexico could have been next in line, but there was no order prescribed.

If the Senator from Florida wishes to be recognized, the Senator from Florida is recognized for 15 minutes.

Mr. MACK. Mr. President, let me make clear, at least from my perspective, what this debate is all about. I do not question the motives of Senator BROWN and Senator BUMPERS. I know they are as committed to the cause of freedom and democracy as the rest of us. But this is clearly a debate about the future of democracy. It is a debate about freedom, justice, and human rights. The issue here is whether, when we conclude this debate and cast our votes, whether the future of democracy is stronger or weaker. It is that simple.

In my short period of time in the Congress of the United States, I have accumulated a lot of stories, a lot of experiences that have had a significant impact on who I am and what I believe our Nation stands for. As a new Member of the Congress back in 1983, I had the opportunity to meet a gentleman by the name of Anatoly Michelson. Anatoly represented the longest divided spouses case of the Soviet Union. When he and his wife and daughter and grandson were reunited out at Dulles Airport 3 days before Christmas in 1987, I saw the end of 31 years of separation take place. And that took place because of a commitment on the part of the people of this Nation to stand up for the principles of freedom and justice, democracy and human rights.

Anatoly, when he built his house for his family to live in down in southwest Florida, put on the front of the house in big, bright red letters the word, "Freedom."

I also remember standing out at Andrews Air Force base when our prisoners of war from Desert Storm returned to America. With tears in my eyes I recognized what these individuals did to represent our country's commitment to freedom and democracy. I also remember escorting a group of Cuban-Americans to Guantanamo Bay Naval Base in Cuba and going out to the west gate, as those Cuban-Americans reached through the gate, reached through the fence to get a handful of soil to put in their pockets to take back to Miami as a reminder of their commitment to seeing the day when freedom and democracy will return to Cuba. I remember the young Navy ensign standing there with me who turned to me and he said, "You know, Senator, until this day I never really understood the significance of freedom, of democracy. I have for all these years taken for granted those freedoms that we enjoy on a day-to-day basis."

I could go on and on and talk about those stories. But my point is this Nation cannot turn its back on the commitment that we have to expand the borders of freedom.

One of the books I read last year was a book called "Millennium." It was written by Jacques Attali, the former President of the European Bank for Reconstruction and Development. In his book he lays out a question, a question about where the center of influence will be in the 21st century. The book was written from the perspective that we did not have the ability to compete for that position, that the center of influence was either going to be in Europe, led by Germany and France, or it was going to be in the Pacific with the leadership of Japan, as if America no longer existed.

I raise this not in the same context of the book because the book was written from a perspective of economic competition. To me, as I read through that book, the reason I think it is important for our Nation to make sure we compete for and remain the center of influence in the 21st century is, again, because of the principles I talked about a moment ago: freedom, justice, democracy, and human rights.

I believe our Nation is the only Nation on this globe that can make the commitment to see that the billions of people throughout the world who do not live with those principles today will have that opportunity sometime in the future. Some people may take the approach: That does not motivate me; I am not interested in that kind of moralistic attitude about the role and responsibilities of our great Nation.

I say to them, think also about the opportunities that would result from our commitment to the spreading of ideas that will open up great markets around the world. Because out of freedom and democracy come free markets that will be open for our children and grandchildren in the future.

Again, I do not raise this book, "Millennium" from the perspective of the economic question. I do, however, raise it because I believe it is important for this Nation to step forward and continue our commitment to freedom and democracy.

There have been a number of letters we have all received indicating why NED should be supported. There are letters from President Clinton. There are letters from former President Ronald Reagan, from Jack Kemp and Jeane Kirkpatrick, from individuals who are the executive director and chairman of an organization called the Princeton China Initiative.

That letter points out that:

> Without the help from NED, the impact of these organizations and publications will be greatly diminished, and some will even cease to exist. To the exiled Chinese democracy movement which has been growing steadily since the 1989 Tiananmen Square movement, the abolition of NED would be a great setback. It would have a negative impact on the whole process of China's democratization and stability.
>
> We urgently appeal to you to continue your support of NED so that it can play an even more important role in promoting democracy in the world.

In Jeane Kirkpatrick's and Jack Kemp's letter they say:

> NED has been a steadfast supporter of democratic movements, even in the most repressive societies where it is not always easy to work. This is best reflected in the honor roll of grantees of the Endowment has supported, many of whose names are now so familiar: Lech Walesa, Vaclav Havel, Armando Valladares. * * *

Let me make a point. Armando Valladares, an individual who enjoys his freedom today because of the commitment of the free world to see that he would be freed from Castro's prisons, has made a commitment of his life to see the freedoms he enjoys are enjoyed by others around the world.

Armando Valladares was our Ambassador to the U.N. Human Rights Commission in Geneva. So there is a continuation of good that comes as a result of the commitments that have been made.

The letter goes on to say:

> Yes, the Wall has fallen, but tell that to the peoples of China, Cuba, Vietnam, Burma, Tibet, and the rest of those billions of people who continue to suffer under the yoke of Communist oppression.

President Clinton's letter:

> Supporting the world-wide movement toward democracy is one of the best investments we can make in our national security.

President Reagan:

> On the 217th anniversary of our nation's independence, I am reminded America's greatness lies not only on our success at home, but in the example of leadership that we provide the entire world. * * *
>
> Our work, however, is not complete. As I look abroad I see that the struggle between freedom and tyranny continues to be waged. Disappointingly, in some places, it is autocracy, not freedom, that is winning the day.
>
> This is why I strongly support continued Congressional funding for the National Endowment for Democracy.

Earlier it was said this is for the big boys; this Endowment for Democracy is for the big boys, talking about the Chambers of Commerce and the AFL-CIO. I would just remind those it was Richard Lesher, of the Chamber of Commerce, who went and spoke in Russia to students about the significance and importance of democracy, of free markets, of free enterprise, of capitalism. And, yes, I think it is great that we have found a way to bring together diverse views to work together to expand these ideas that we are so committed to.

So I say to my colleagues, I think this is a debate well worth having.

I was asked earlier: Why is there so much passion in this debate? My only explanation was that there are many of us for this past decade who have been involved in efforts to aid the Contras, for example, or making decisions with respect to the U.S. role in the Persian Gulf, which involved fighting and dying. We have an opportunity here to see that the National Endowment for Democracy continues so that the ideas of freedom, justice, democracy, and human rights have an opportunity to spread without the loss of life.

So I ask my colleagues to support the National Endowment for Democracy. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. DOMENICI], is recognized for up to 10 minutes.

Mr. DOMENICI. Mr. President, if I do not use my 10 minutes, I am going to yield what I have left to Senator MCCAIN who is sort of managing the matter in my stead. I compliment him and thank him for that.

First, I want to make a couple of remarks about some of the comments that have been made. I have not been here for all of them. There have been a number of very eloquent statements about democracy and freedom.

I want to first compliment Senator Dick LUGAR. I think because he knows the details of NED and has worked at that for a long time, he gave us a combination of the practical, the everyday, what is really going on, along with a very visionary statement. I want to associate myself with his remarks.

To my very good friend from Florida, who comes closer to these issues of freedom and human rights and justice because of the Cubans in his State and their direct relationship with this island. It continues to bother them in a way that is hardly understandable unless you understand freedom, and that relatives are in bondage and relatives are free, with just a little sea in between.

He is reminded regularly of how great freedom is for those Cubans who are marvelous Americans in his State—at least a great number of them are in his State. I think his statement, too, was a combination of the practical and the very eloquent idea about freedom.

First, let me say I have had only one practical experience with NED, and it sort of points out how nonpartisan it is. I was involved when the National Endowment for Democracy, that is the Democratic portion of it, invited me to go to Poland with Senator Howard Baker and former Vice President Mondale. We participated in a marvelous day and a half with the people of that country in talking about democracy from our standpoint.

From that, because we saw then and there, as citizens of this country, that they could use things of a material sense that we take for granted every day and that we even throw away, came the first gift to the country of

Poland, which was a gift from the Congress to their people.

I introduced a resolution that said, let us give them computers and things they would need for their libraries and for their legislature. It turned out that there was very little cost involved. Companies volunteered, and we found computer systems that we did not need and, in a sense, within about 18 months this gift to Poland from the Congress of the United States, representing our people, occurred.

It is those kinds of ripple effects that have a very dramatic impact on those who are the beneficiaries of both the physical contact, the intellectual exchange and any material things that flow from it, because there is an immeasurable bond that occurs.

Beyond that, let me suggest that clearly Senator HOLLINGS and I, in putting this bill together, were confronted with the very things spoken of on the floor: What will we cut? Let me tell you we cut enough to make room for this $35 million and come in at a lower level than last year and well within the caps that will establish our responsibility to the debt and to the deficit.

So we did not increase the deficit. We cut other programs so that we could put $35 million of the $50 million that the President requested in this bill.

Frankly, I think that is the way to do it. For those who are wondering what you would cut, we already cut hundreds of millions of dollars out of about five different programs so that we would have room for this program and a few others which we thought were absolutely necessary.

Let me close with a story of my own, a set of things that happened to me as I was in this U.S. Senate that impacted me in terms of freedom, capitalism and democracy.

We had, in a joint meeting of Congress, the new and young King of Spain. I am sure the occupant of the Chair was not yet even Governor of his State. Perhaps he was just beginning to serve when the change of rule occurred there and the new young king came to America and said, "I'm committed to democracy." Believe it or not, in his speech that day, he said something that is in my mind and will never leave. Here was a person who lived under a dictatorship, looking to democracy, and he said:

All significant human achievement occurs because a man or a woman is free.

I went back to my office and said, "He must be nuts. There has been achievement without freedom." How could he be right?

So I asked some historians and they said, "He is right," because achievement occurred even under despots and without democracy, but it was very selective. Michelangelo was picked to be free by the stipend of those who paid for his freedom.

I concluded, from a king who never experienced democracy, the reason for America's greatness is we experiment with a lot of freedom and we do not select it. It is just given almost to anybody who will gobble it up and use it and, thus, the achievement of this country in terms of breakthroughs in science, of culture, of material wealth, just has grown exponentially and our fever to spread it around the world is occurring in a rather dramatic way. If ever we wanted an empire, it was an empire of free and independent and democratic countries. Sort of a nonempire. That was our idea after the Second World War.

We were not seeking some "America runs the world." We were saying if our constitutional freedom, or something like it, could just spread around the world, we would be freer, we would be safer, we would be much more without war. And the more achievement that is around us, the more we will achieve and the better for us and the better for humanity.

If this small endowment, with four organizations that do not usually work together—$35 million for NED, for the Chamber, the Democratic Party, the Republican, and the labor unions—if they can do some small part in this ever-changing world, a world we hope is changing toward democracy and freedom, then, frankly, in a $1.5 trillion American budget, it would seem more than appropriate—in fact, not to do this would seem almost ludicrous.

What takes its place? Some would say, "Well, don't worry, you can let AID take its place." I was prepared today to give a detailed set of remarks about why I do not think AID can do it. They are so slow, they are so bureaucratic, they could not possibly, in less than a year and a half, get a crisis under control and say, "Let us help, here is a crisis." By the time they figure out what authority and from whence comes their power and what bureaucracy has to be brought in, the crisis would already disappear, or we would have suffered another setback in democracy.

So I think it has to be a fast-responding organization. That is what this can do. I think it has to be very personal and it has to be able to get in and do the kind of things that Senator LUGAR so eloquently alluded to.

So I hope the Senate, in an overwhelming way, tonight says, "Let us pay for this." I thank the Chair and reserve whatever time I have and give it to the distinguished Senator from Arizona.

The PRESIDING OFFICER. Without objection, the Senator from New Mexico retains 1 minute 44 seconds to be used by the Senator from Arizona.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Kentucky [Mr. MCCONNELL], for up to 10 minutes.

Mr. MCCONNELL. Mr. President, there have been a lot of excellent speeches this afternoon on the importance of NED. I listened with rapt attention to Senator LUGAR, Senator MACK, and now Senator DOMENICI. I wish to commend Senator DOMENICI and Senator HOLLINGS for finding a place in this bill for this most important program.

Mr. President, it is not an exaggeration when I say one of the most inspiring experiences I have had is meeting abroad people—most of them young people—from both NDI and IRI who were on the ground overseas teaching people about democracy.

Virtually everything that could be said in support of NED I suppose has already been said. But when you meet these young people abroad, working on a bipartisan basis to develop parties, monitor elections, and literally teach democracy from the ground up, it is truly inspirational. Obviously, that is the way we finally concluded the cold war. The military part of it may be over but, as many have mentioned, the learning of democracy, the only lasting way to achieve peace and some degree of harmony not only within these countries but their relationships with others will not be achieved until democracy has taken root.

So, Mr. President, I rise to add my voice in strong opposition to any attempt to cut funding for the National Endowment for Democracy and its sister organizations, the National Democratic Institute and the International Republican Institute. Frankly, I cannot think of anything dumber that we could do in the wake of the end of the cold war, and hopefully we will not take that step tonight.

Communism may have collapsed but democracy has not yet consolidated full claim in its place. In virtually every post-Soviet Republic, authoritarian reactionary forces are engaged in battles with democratic leaders which will actually determine the fate of those nations.

It is not over yet. The final outcome is yet to be determined. Nothing less than the future of freedom for the citizens of these countries is at stake. Having invested billions of dollars in the security of our Nation to win the cold war, it would be an act of national suicide to forfeit the peace and prosperity that stable democracies assure.

For a tiny fraction of our budget, NED has nursed the embers of democracy—for a tiny fraction of our budget—through the harsh elements of Communism and dictatorships. Having survived this winter, democracy is very much in a seasonal spring. It makes no sense, none, for the Congress to trample the emerging shoots, to cut off the sustenance and risk a rich harvest of liberty and free enterprise.

Many of my colleagues and a number of journalists have pointed out that

promoting democracy obviously promotes our interests. Simply put, democratic nations pose no threat to our interests and in fact present economic opportunity.

Over the past decade, the Endowment has provided grants to unions, student organizations, the press, legal aid groups and political activists. Their record is not partisan but, rather, principled.

Let me repeat that. Their record is not partisan but principled. Where there are people who seek self-determination, the rule of law and free market systems, NED, NDI and IRI have stepped in to provide training and technical support. Whether offering seminars on electoral law or copying machines to produce a newsletter, the Endowment and its companion organizations have responded quickly and effectively to local needs.

Although these organizations work closely with the State Department and USIA to support our national interests, their strength lies in an ability to respond rapidly and with programs tailored in size and in purpose to local needs.

I think it is worth noting that within weeks of becoming chairman of IRI, Senator MCCAIN began a major policy and program reorganization effort. In short order, IRI was able to field a team, the only international team, I might add, which effectively monitored the April referendum in Russia. The IRI team broadened its scope from the traditional technical aspects of monitoring ballot security and vote tabulation and evaluated the larger electoral environment. They were able to provide a detailed assessment of the media's ability to function objectively and freely, the voters' level of understanding of both the process and the issues and the Government support of an open process.

The team has since made recommendations that will very much factor into future U.S. assistance to Russia. I thought one of their more interesting conclusions was the need to address voters' misunderstanding about the purpose of elections. In a society where election results have always been foregone conclusions, where there has been an absence of choice, ballot security, the concept of a secret ballot, the need to vote at all were viewed as irrelevant. The IRI election observers have now been replaced with a full service civic education training program which I am confident will make important contributions to the evolution of constitutional reforms and democratic institutions.

Communism has collapsed but there are many grim alternatives which could take its place. We need to consolidate democracy's fragile hold. It is in our interests to stay the democratic course.

In a recent column Ken Adelman cautioned each one of us. He said:

> Any Member of Congress who opposes NED should be prepared to tell the 29-year-old Chinese activist who demonstrated at Tiananmen, the young Kenyan lawyer jailed for advocating human rights, or the Serbian sociologist bravely opposing ethnic cleansing—three freedom fighters NED honored last April—why America no longer wishes to help their cause.

I heard one Senator say in cutting NED's funding we are not going after the fine people doing a good job at NED; we are going after the principle of the thing and their funding.

I agree there are good people at NED, IRI, and NDI, but I do not think you can separate them from either their principles or mandate to build democratic institutions, support free enterprise, and help establish the rule of law.

(Mrs. BOXER assumed the Chair.)

Mr. MCCONNELL. For a decade, Madam President, the Endowment and its companion organizations have earned bipartisan and broad-based praise for their impressive record of success. I think we should build upon that record and not abandon it.

Again, Madam President, I wish to particularly commend Senator MCCAIN for his leadership on this most important issue, and I certainly hope the Senate will not kill NED.

Madam President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has 10 minutes under the previous order.

Mr. GRAMM. Madam President, I do not claim to be an expert on the National Endowment for Democracy, and I would have to say that when the program was initially established I was, to say the least, skeptical. But I would like to relate an experience to our colleagues that I think is very relevant to this vote as we consider whether or not to maintain this agency.

In early July, I had an opportunity to be in Eastern Europe on the cutting edge of our effort to establish democracy and capitalism in countries that have not known either in the last half century or longer. The experience I wish to share happened in a country called Albania.

Now, I wish to remind my colleagues that Albania was the most Marxist of all countries. Albania was so committed to the principles of communism that they broke with China for allowing any experimentation in private ownership.

Albania, by any definition, is and has been the poorest country in Europe. Two years ago, in Albania, it was illegal to even own a chicken. In Albania, if you were a farmer, any chicken on your farm belonged to the State. As a result, we would not be surprised by the fact that they did not have many chickens, and the chickens they had were not very good.

When I was in Albania on July 7–8, all that had changed. The Communist government there had been overthrown in a democratic election. The agricultural land in this very small, very poor country, had all been privatized. Any chicken, cow, ox, mule, or donkey is now privately owned. This country is having an economic awakening, and it is a wonderful thing to see.

I had an opportunity to talk to their young president, Soli Barisha. His is a very poor country. They have lots of people that are barely eating.

So you might think when I sat down to talk to their new President that he would say, "Well, I want to thank you for the foreign aid that we have from the United States." Or you might think he would have asked for foreign aid, but he did not do any of those things.

What he said to me was "I want to thank your country for the National Endowment for Democracy and the International Republican Institute, that came to my country during the election and taught us how to campaign, that taught us how to put together a platform, that taught us how to go out and organize a political rally."

He said "I would not be sitting where I am sitting today and the changes in my country would not have occurred had it not been for the National Endowment for Democracy."

Madam President, let me complete the story to tell you how strongly I feel about this. I listened to this relatively young man tell me his plans for Albania, about privatization, about free enterprise, about economic growth, about free trade, about joining the European Economic Community, about his aspirations for his people.

I said, "You know, as I traveled around your country, I see you have all these pedestals where statues to Stalin and Lenin and all these Marxists have been ripped down and all of these empty pedestals are just sitting there." I said "If you do all these things, my guess is someday in all of these squares on all of these pedestals they will have your statue."

He looked at me and said, "Do you know who we ought to build a monument to?"

I said "Who?"

He said "Milton Friedman."

Madam President, ideas have consequences. They are very powerful things. We all grew up in the greatest country in the world. We learned about democracy, its good side and its bad side by practicing it. It has developed in our country and in our mother country, Great Britain, now for hundreds of years. But in countries like Albania, it is brand new. They do not understand it. They do not know how it works. Things we take for granted, that the winner of an election governs and the loser sits down and shuts up, they do not understand.

We are spending a relatively modest amount of money to share with them

the recipe that made this the richest and most powerful nation in the world. When we are giving away billions of dollars in foreign aid, much of which does not produce the democracy or the freedom that we see, does it not make sense to invest $35 million to share with people the source of our freedom and our prosperity, which is democracy and the American free enterprise system?

Finally, I want to remind my colleagues of something we forget about on these amendments. No one has proposed here to cut this $35 million to lower the deficit. We have a spending cap set by law. If we do not spend the $35 million here, and unless we lower that spending cap, when this bill comes back from the conference it is going to be spent somewhere else. So the issue is priorities.

I do not know a lot about this program, but I know what it did in Albania. I know what it is doing elsewhere around the world. Let us not spend so much of our money, like rich kids in the middle of a slum with a cake, giving away pieces of the cake. Let us instead share the recipe that we use to bake the cake. If we can help Albania find democracy and free enterprise, we can borrow money from them someday. We will not need to lend them money. Let us share with them what we have that made us the greatest and richest country in the world. That is why I agree with Ronald Reagan. That is why I agree with John MCCAIN.

This is a small program but it is vitally important. Until the whole world discovers democracy and economic freedom, let us help them find it by sharing our experience with them.

I urge my colleagues to look at what this small program has done and decide to fund it.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland has 10 minutes.

Mr. SARBANES. Madam President, I yield 2 minutes to the distinguished Senator from Michigan.

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

Mr. LEVIN. Madam President, let me thank my friend from Maryland for yielding me 2 minutes.

I want to briefly tell a story about Albania, where I was recently. For decades Albania was under the thumb of one of the most despotic dictators the world has ever seen, a man named Hoxsa, who had imprisoned tens of thousands of his own people and killed tens of thousands more.

Now Albania has a democratically elected President, Soli Barisha. How did he get elected? In part, with the technical assistance of the National Endowment for Democracy.

NED personnel—National Endowment for Democracy personnel—provided video cameras to Barisha's National Democratic Party during the election and showed them how to use it. Barisha's rallies were suddenly available for TV broadcast within hours. Barisha, this democrat—with a small "d"—is a dynamic campaigner. He was running on the promise of more democracy and more freedom for the Albanian people, who had been under the thumb of a Communist dictator for decades, and he has come through with his promises. With those modern campaigning techniques that were being promoted by the National Endowment for Democracy, Barisha won.

We are going to save tens if not hundreds of billions of dollars in defense spending if the small struggling democracies of this world, that for the first time have a taste of democracy, succeed. There are now countries which are no longer threatening us. They must succeed for our security. This tiny investment is a very worthwhile investment. I hope we will maintain it.

Again I thank my friend from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 8 minutes.

Mr. SARBANES. Madam President, I have to confess I am puzzled by some of the debate that took place here in the Chamber today and some of the animus that seem to exist toward the National Endowment for Democracy.

Earlier we heard a statement to the effect, well, there is a way for the powerful and the privileged to escape the rules.

First of all, it must be clearly understood that the people who carry out these programs are volunteering their time. They do not get paid. I cannot understand why a concept noble in its origins and noble in most of its execution—occasionally you get an abuse. I am not going to try to pretend that on occasion there have not been any abuses, but most of those happened in the early years and have been tightened up.

As I understand, the rules were always you never could go first class. They did allow you to go business class. They put tight restrictions on the use of that if you are getting a use of travel money. People get their accommodations paid for, but the very talented, able people volunteer their time in order to help in this process of building democratic institutions around the world.

Some may say, "Well, the cold war is over. This was a terrific idea when we were dealing with communism. It provided an inroad in that otherwise would not be available." But we continue to face challenges.

As David Broder said in his fine article—I just quote the title of it: "No Good Deed Unpunished:"

The NED had a proven track record and a tiny budget. The united Republicans and Democrats, business and labor in helping small groups abroad in their struggle for democracy. So the House killed it.

He then goes on to discuss all of the things NED has done, and he concludes:

Backers of NED point out that the cold war may be over, but the triumph of democracy in large parts of Asia, Africa, and Eastern Europe is far from ensured. All sorts of hostile elements are ready to strangle democracy in the crib. When Americans turned inward after World War I, thinking the world had been made safe for democracy, what we got was World War II.

He ends this article with this paragraph:

The Senate next month has a chance to undo the damage and keep the United States on the side of building democracy in the world.

Madam President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, July 4, 1993]

NO GOOD DEED UNPUNISHED

(By David S. Broder)

The members of Congress are home for the July 4 holiday, and many of them will mark the greatest of our patriotic celebrations by quoting once again the stirring words of the Declaration of Independence.

They cannot be heard too often: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

That is the basic credo of democracy, as vital today as it was when first proclaimed 217 years ago. Unfortunately, 243 House members cast some doubt on their understanding of the enduring importance of that message when they voted last month to kill the National Endowment for Democracy, the small, government-financed agency that for the past decade has fostered grass-roots democratic movements all around the world.

NED is a tiny operation. It employs 46 people and has a payroll of less than $2 million. The bulk of its money—$48 million was the amount the House killed—goes to small, struggling organizations such as the Democratic Development Center in Latvia, which supports politicians, journalists and citizens sniffing the first breaths of freedom.

Rather than channel the grants through a big government bureaucracy, NED operates through specially created international arms of four organizations that know a lot about Main Street capitalism and grass-roots democracy—the Republican and Democratic parties, the Chamber of commerce of the United States and the AFL-CIO.

The man who led the fight against NED in the House is Rep. Paul E. Kanjorski (D-Pa.), who has been after its scalp almost from the time he arrived in 1985. Kanjorski tells me he was offended by the attitude a senior NED official took when the congressman first began inquiring into its operations. His passion on the subject is clear, but his reasoning is not always easy to follow.

In his floor speech, Kanjorski said it was "an insult to the Constitution" to "give taxpayers' money to a private organization to

carry on the foreign affairs of the United States." No one in the State Department has ever charged such an act of usurpation, and three presidents have supported increasing levels of funding for NED.

Kanjorski is deeply suspicious of the participation of the Republicans, Democrats, business and labor. He spoke of "an unholy alliance" and, in a wonderful non sequitur, said, "NED puts together so many unfriendly parties in the bed together that it makes us wonder whether we in fact have not come together in a unicameral legislature."

When I asked him what exactly bothered him about the participation of groups that differ on many issues—but not on their commitment to democracy—he replied with another remarkable bit of logic. "They're all operating under the same flag," he said. "That's contrary to our system of checks and balances."

Yet Kanjorski was able to prevail on the House floor against the combined opposition of the president of the United States, the leadership of both parties and the ranking Democrats and Republicans on the House Foreign Affairs Committee. In pure political terms, it was quite a feat for an unheralded member with no claim to jurisdiction or special expertise in this area.

The 243 to 181 roll call on June 22 was a peculiar vote. Freshman Democrats voted 40 to 23 to kill NED; more senior Democrats, 96 to 90 to save it. Despite the fact that NED was created in the Reagan years and several of the House's most prominent conservatives endorsed it strongly in the debate, Republicans voted 112 to 62 against it. As with the Democrats, the freshmen led the revolt.

One theory is that the freshmen of both parties were spooked by an ABC-TV news piece the night before the vote—a piece in which Kanjorski was the only member of Congress quoted and in which the supposedly neutral correspondent said, "Communism may be dead in much of the world, but the endowment is still costing you $30 million a year [last year's appropriation] to support foreign labor unions, small businesses and political activists.

Another, less kindly theory, which might be pondered by proponents of term limits, is that many of the freshmen may lack historical appreciation of the effort it has taken to cultivate democratic movements such as Poland's Solidarity—an early recipient of NED help—and its counterparts around the world.

Backers of NED point out that the Cold War may be over, but the triumph of democracy in large parts of Asia, Africa and Eastern Europe is far from ensured. All sorts of hostile elements are ready to strangle democracy in the crib. When Americans turned inward after World War I, thinking the world had been "made safe for democracy," what we got was World War II.

NED programs—from legal assistance to political prisoners in China to the teaching of mediation techniques in South Africa to technical aid and training for privatizers in Bulgaria and union organizers in Albania—do not deserve to be sacrificed to Mr. Kanjorski's conspiracy theories.

The Senate next month has a chance to undo the damage and keep the United States on the side of building democracy in the world.

Mr. SARBANES. To the credit of the chairman of the Appropriations Subcommittee, the distinguished Senator from South Carolina, he brought NED forward in his bill at a $35 million figure. The President asked for $50 million. The President actually wanted to take it up.

People ask, "How can you take it up when we are cutting spending?" The President himself, in his budget submission, was cutting spending very deeply in many places. Listen to what the President says about this particular program, and this investment:

I am writing to express my strong support for the $35 million in funding for the National Endowment for Democracy. Supporting the worldwide movement toward democracy is one of the best investments we can make in our own national security. NED has been one of our most important and effective instruments for supporting democracy abroad. Now, with new democracies and democratic movements gaining strength from the former Soviet Union to Africa to Latin America, we need to make our support for democracy an even higher priority.

The $35 million appropriation now before the Senate, while short of the $50 million I requested, would at least enable us to increase our support for those who are waging democracy's fight abroad.

The President's Assistant for National Security, Tony Lake, said in writing to the chairman of the Foreign Relations Committee:

As you know, the President has placed the promotion of democracy at the center of his foreign policy, and so strongly supports NED. The NED has been a dynamic and cost-effective organization that has contributed greatly to American foreign policy objectives. We intend to rely even more heavily on the NED in the future. It is for this reason that we are seeking an increase in its funding for fiscal 1994.

The White House wants to send a message to democracy movements around the world that President Clinton takes their cause very seriously. Statesmen like Vaclav Havel and Lech Walesa support the NED with enthusiasm. I believe that we can do no less.

Madam President, I agree with this. I do not think we can do less. This is an opportunity to put American values and ideals around the world. It is a way to do it in a highly cost-effective manner, to draw on the talents of some of our most able men and women, committed and devoted to trying to spread the democratic ideal.

This proposal serves America's interests, and it serves America's values. Some very, very good work has been done. The cold war is not fully over. We always run the danger of a relapse. Former Lithuanian President Lands bergis, when asked about those who voted against NED, said:

Did they realize that the return of anti-democratic regimes in Eastern Europe and the former Soviet Union and the resurgence of imperial forces in Russia is an ever-present threat, not just to the citizens of those countries, but also to those of the United States?

Madam President, this is an opportunity for us to move forward in seeing American ideals, as reflected in democratic institutions, spread around the world. We will benefit many times over from it. We will benefit financially in saving defense costs. We will benefit because a better life is being brought to people around the world.

I urge my colleagues to stay with this program. It has done good work. It can do even better work. We need to support NED.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I am disappointed that we are debating the merits of the NED and that we are threatening to cripple an organization that has been on the cutting edge of promoting American democratic ideals in a world that has been often hostile to democracy.

Nevertheless, if we are to have this debate, I am glad to join in it as an advocate of full funding for this extremely valuable and effective organization.

The spread of democracy abroad is one of the most important things that we can do to make life better here at home. The democratic revolutions in Eastern Europe and the former Soviet Union gave us the peace dividend. By 1995, the defense budget adjusted for inflation will be less than half the level of the 1985 defense budget. Those are real savings, and those were made possible by the democratic revolutions that we have applauded—and that NED supported.

Continuing the worldwide democratic revolution is therefore a major interest of the United States. Conflict and bloodshed exist predominantly in those regions and countries where democracy has not taken root. To the extent we can promote the spread of democracy, we will build a more peaceful and, thus, a more just world, one that requires less defense spending, that calls for fewer U.S. troops abroad, and that reduces the chances that U.S. soldiers will be sent into combat.

Thus, I hope the goals of NED are beyond the scope of this debate. I venture that every Member in this Chamber has made speeches in which he or she has extolled the goals of advancing democracy, supporting the democratic revolutions in Eastern Europe and the former Soviet Union, or pressing for political reform in places like China, Cuba, and other totalitarian holdouts.

If we agree on the goal of advancing democracy, we then have to face up to the issue of means. Madam President, if we will the ends, we must will the means. Otherwise, we are just paying lip service to the goals we profess.

That is why the Congress created the National Endowment for Democracy, and that is why I participated in the effort to do so. I was one of the founding people. I believed that an independent organization, such as NED, was the only way that we could effectively promote democracy, particularly when supporting democracy involves challenging authoritarian or totalitarian regimes.

Before NED existed, the United States had no good instrument to press for democratic change. The State Department cannot become involved in working with or providing material support to prodemocracy groups. Anything it would do, constitutes brazen interference in the domestic affairs of foreign states. Moreover, because the State Department must principally concern itself with managing relations with foreign governments, it would inevitably subordinate efforts to promote democracy to its main mission of managing government-to-government relations.

Before NED, the U.S. Government really had only one option: To help prodemocracy groups through covert means. That was it.

I doubt that anyone here believes that represents a viable option. When NED was created, I argued that those means were inappropriate, that we should not make a practice of supporting prodemocracy groups through covert actions. While resorting to such means might be necessary under certain circumstances, I believed that it would not only compromise the groups that we sought to support but also contradict the very ideals that we sought to promote.

Consequently, Congress created NED as a private and independent organization. This enables us to support democracy openly.

Madam President, in the late 1970's one of the greatest men I have met came to me in the U.S. Senate, a man named Irving Brown. He was international president of the AFL–CIO.

Irving Brown went to Paris in the underground before the end of the Second World War. He remained there to become the principal anti-Communist in this world. He was the principal fighter all over this world for free trade unionism. He did more to advance the cause of democracy than anybody I have known before or since.

He died a few years ago. I went to his memorial service down at the AFL–CIO building here in Washington, DC.

I can tell you he used to come and visit me; I used to visit him. I went to the IALO, the international organization over in Geneva, Switzerland. I fought side by side with him for free unionism, freedom, and democracy over the world.

In the late 1970's, he came to me and talked to me about helping a little group in Poland called Solidarity. He told me about a young man named Lech Walesa. Irving told me that the way he was fighting communism was by providing the ink, the paper, the printing presses, and the mimeograph machines, if you will, so they could promulgate their ideas of democracy, their ideas of freedom within these totalitarian states.

It was from those buds of democracy that, of course, we had this revolution all over the Central European countries and, of course, the Soviet Union.

Irving Brown, immediately after the war, was the one who stopped the Communists from taking over the French docks. He stopped them all over the world. And it was by using methodology that NED now uses very effectively, by fighting up front for democracy, that he was able to do it.

If there is a godfather of the National Endowment for Democracy or a person who deserves more credit than any other person I know in this struggle of ideas, it is Irving Brown. He was an inspiration to everyone who knew him. He was a true intellectual. He knew all of the French Left Bank intellectuals. He could hold his own with any of them. His favorite was Ramon Maron.

We talked at times of the philosophical and intellectual movement in France and this country, about free trade unionism and about how you spread it and how much it defeated the Communists of the world.

If it had not been for Irving Brown we would not have had the National Endowment for Democracy. We would not have had all of the things that have happened.

I was on the initial board of the National Endowment for Democracy. I have to tell you I served there for around 5 or 6 years. I cannot remember how long now. But I never saw a group of people who tried to handle the funds better or do a better job on behalf of the United States of America and all people who loved democratic principles than the board of directors of the National Endowment for Democracy, which changed from time to time and which was a broad cross-section from the left to the right; Democrats, Independents, and Republicans. And the current board is as good as the original board.

I have to say that board played a role all over this world. The changes that are coming about in China are coming about in part and maybe in large measure because of the National Endowment for Democracy.

The changes that came about in the Eastern bloc countries, or should I say the Central European countries, came about in large measure because of what happened through the efforts of the National Endowment for Democracy. A lot of countries all over this world have been benefited because of the overt, open, and effective way that the National Endowment for Democracy has operated.

I think Irving Brown, sitting up there in Heaven, is probably smiling down on us and saying, "Way to go," because he was threatened each day of his later life. He was the most hated man in the world by totalitarians, Communists, and antidemocratic forces. And that man stood up to all of them. He was not a large man in stature, but he was one of the largest, most wonderful people I ever met in my life.

The National Endowment for Democracy enables us to support democracy openly. This ensures that we have an instrument that can energetically promote democratic values without damaging U.S. relations with undemocratic countries with which the U.S. Government inevitably must do business on other issues.

Some argue that the NED duplicates the prodemocracy activities of AID or USIA. But if a nondemocratic government refuses to let AID or USIA function on its territory, they cannot do a thing. Only NED can challenge the antidemocratic governments and sow the seeds of democracy.

Mr. President, I did not believe the reasoning for creating NED was difficult to understand. Yet, year in and year out we have seen the wisdom of funding for this vitally important organization challenged. I wish to take a moment to rebut the arguments against NED before discussing the case in favor of fully funding NED.

Some argue that the involvement in NED of the major political parties, the AFL–CIO, and the Chamber of Commerce represents nefarious collusion of powerful political forces to tap into the taxpayer's money.

It is dispiriting that we have to defend a program that brings together all these groups. But the fact is that all of them believe in advancing democracy and that all of them have unique skills to bring to the task.

We all agree that you need political parties for a democracy to function. It therefore makes sense to involve the Republican and Democratic Parties, through their international institutes, to train democratic groups in grassroots organization and other needed skills.

We all agree that democracy functions better if other associations exist in a society to represent the interests of various groups. Such associations include unions, which provide a mechanism for employees to voice their views and pursue their interests collectively. It therefore makes sense to involve American labor organizations to transfer such skills.

We all agree that political freedom and economic freedom are fundamentally related. Historically, there has been no case of a country that had an enduring democratic system but that did not have a market-based economic system. It therefore makes sense to involve American business groups in helping to nurture the private enterprise that is a fundamental social foundation of democracy.

My point is that the groups NED has brought together can do this far better than Government agencies can. NED has a real comparative advantage. If anyone truly believes the Federal Government can perform these activities better than NED, they are engaging in wishful thinking.

Other critics of NED claim that the organization is mismanaged, that it uses taxpayer moneys poorly. These critics typically point to a GAO study that calls into question NED's financial controls and raises other concerns.

Mr. President, I have examined the GAO report closely, and I agree that in NED's early years problems existed. These were largely startup difficulties. They have been solved, and those who bring them up now are recycling old news.

NED developed an action plan to address the problems raised by the GAO. NED has bolstered its grant oversight capability through hiring of additional administrative staff in the areas of auditing, accounting, and grants management, and has been developing a detailed strategy for conducting audits for all grants for sums greater than $25,000. Financial control and grant monitoring procedures are employed at every stage of the grant process, including receipt of proposal, grant award, monitoring, audit, and final closeout. NED has clearly responded to all the problems identified by the GAO.

However, it is also time we look a little more critically at the reports that have challenged NED's effectiveness. For example, in the 1992 report of the USIA inspector general, NED was criticized by an auditor for not having on file the time sheets of a beneficiary of a NED grant. The individual in question was Umberto Rubin, who headed a radio station that was the only independent news outlet in Paraguay during General Stroessner's rule in the late 1980's.

Mr. President, in most cases I would agree that such a failure should be reason for criticism. But Umberto Rubin had not been able to file his time sheets because the regime had arrested and imprisoned him. Despite this explanation, the auditor from the inspector general's office said that if the grantee was in jail, he should have plenty of time to fill out the forms.

I cannot speak to the quality of training for such auditors, but in this case there was a need for some reality therapy. To put it simply, if an oppressive regime throws you into jail for advocating democracy, it is not going to let you fill out paperwork for the National Endowment for Democracy while you're behind bars.

Mr. President, I now wish to say a few words about NED's record and accomplishments.

Since 1989, we have lived through one of the great waves of democratic change in history. The National Endowment for Democracy has been at the center of that revolution, supporting those who share our values, helping those who are trying to rebuild political institutions on a democratic basis, and working with those in the Third World who want to carry this revolution forward in other regions.

That is important work. Indeed, it is indispensable work if we want to build a more just and peaceful world. Yet the Members on the other side of this question would undercut this work.

In this respect, I would like to pose some questions to my colleagues on the other side of this issue.

NED provided the Solidarity Movement in Poland with key assistance that helped keep the organization alive in the 1980's and that enabled it to make a more effective bid for power when the political opportunity arose, I met with Lech Walesa in 1990, and he extolled the indispensable role played by NED in breaking the Communist monopoly on power in Poland.

I would just ask whether my colleagues believe it was a bad idea for the NED to provide material support to solidarity in the years after the imposition of martial law. Was it a mistake to help put solidarity in a position to mount an effective challenge to the Communist regime when the opportunity arose in 1989?

To cite another case, NED worked with nascent prodemocracy groups in the former Soviet Union during the Gorbachev years. When I met with some of the new democratic leaders of Russia in 1991, they also highlighted the importance of NED in providing them with training to organize at the grassroots level. More recently, NED provided more than 30,000 poll-watcher kits to democratic groups that monitored the critical referenda in Russia.

I would just ask whether my colleagues oppose such projects. Was it a mistake to help in open and legitimate ways the development of democratic movements and parties? Is it not in the United States interest that democratic forces were in a position to ensure that this summer's key referenda in Russia were free and fair? Would the United States be better off now if the democratic breakthrough in Russia and other newly independent states had not succeeded?

In Cambodia, NED worked with democratic parties to enhance their ability to manage campaigns and to build grassroots organizations. It helped these parties to get into a position from which they could prevail in the recent election and thereby transcend the tortured legacy of the last 20 years. This success is still fragile, open to challenge by antidemocratic forces. Without NED's assistance, the democratic moment would be more fragile still.

I would just ask whether the opponents of NED believe that help to Cambodia's democratic groups is misguided? Is it right that the United States ignore the needs of democratic parties in Cambodia while China's Communist government helped the Khmer Rouge and Vietnam's Communist government helped its client party in Cambodia?

Mr. President, if the Members of this body are not willing to support democracy when the alternative is rule by the Khmer Rouge or domination by Hanoi, what would it take to win support for prodemocracy policies?

These are examples of NED's work in countries in which political reform and democratic progress has captured the headlines. Just as important to the spread of democracy is NED's work in countries and regions that receive less attention.

To cite an example of its less heralded work, NED supported an organization known as Gerddes-Afrique. After participating in the historic 1990 democratic election in Benin, Sadikou Alao committed himself to organizing thousands of African men and women who were eager to provide nonpartisan assistance in helping to build democracy through research, civic education, and active participation.

With help from NED, he has parlayed his extraordinary commitment and organizing skills into a regional structure consisting of more than 2,500 volunteers in 20 countries who are helping to build democratic institutions throughout West and Central Africa.

If we vote to undercut NED, we vote to undercut this work in Africa. We have seen extraordinary progress toward pluralism and democracy in several African states. I ask the Members on the other side of this question whether they truly believe the United States should stand aside, remain indifferent, and withhold any help from those who are struggling to advance freedom and human rights for the peoples of Africa.

These are just a few of the 950 grants through which NED has substantially contributed to the Democratic revolution in the world. If we cut NED, we are cutting support for that revolution and undermining the chances that the recent gains of democracy will endure.

An American statesman has observed that the Communists lost the cold war, but the West has not yet won it. Yes, communism has been placed in the dustbin of history. But we can claim victory only after democracy and free markets produce a better life for the peoples of the former Soviet sphere. Much remains to be done to achieve that victory.

Mr. President, Communist totalitarianism has failed, but the ideas of democracy and free markets are still on trial all over the world. The question today is whether we are going to walk away from the task before it is completed.

Moreover, we need to carry the victory of democracy forward into other regions. The great Democratic revolutions in Europe have reverberated in the Middle East, in Asia, in Africa, where peoples have begun to ask why their countries cannot also move in the direction of freedom.

The National Endowment for Democracy is an instrument uniquely suited to advancing American ideas abroad, without resort to secrecy, without endangering government-to-government relations, and without apology to those regimes that oppress their peoples.

Mr. President, if we undermine this organization, we will fatally undermine our ability to engage in the battle of ideas whose outcome will profoundly shape the kind of world we live in. I urge my colleagues to vote against this measure and to support full funding for the National Endowment for Democracy.

Madam President, I think my time has expired.

The PRESIDING OFFICER. The Chair advises the Senator does have 2 minutes 32 seconds remaining.

Mr. HATCH. Madam President, let me finish with these final remarks.

Madam President, I am conservative, and everybody knows that. But I have to tell you I participated in very few organizations in my life that has done anywhere near as much good as the National Endowment for Democracy.

I was on that board and associated with the people, left to right, Democrats, Independents, Republicans, with all these organizations that operate and use the NED moneys. I have to tell you they watched it very carefully. They were very sincere, dedicated experts. Yes, there were some startup problems, but these problems have been resolved. The current board is performing in an exemplary manner.

Madam President, I do not know of any organization that has done more with less to advance the cause of democracy than this little organization does, and in this day and age when our problems in many respects are even more manifold and greater than what we had when we had two superpowers and we have problems all over this world, I cannot think of a better organization to try to help at this time in our society and in our world affairs.

Madam President, I hope our colleagues will give NED what it deserves, and help this organization carry on its excellent work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona has 11 minutes 42 seconds.

Mr. McCAIN. Madam President, I yield 3 minutes to the Senator from Wyoming [Senator SIMPSON].

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 3 minutes

Mr. SIMPSON. Madam President, I thank the Chair and thank my colleague from Arizona, who is a true fighter on this issue as on anything he undertakes, and I am very fascinated by the remarks of my friend from Utah. He speaks with passion about this fine program.

I do want to support the National Endowment for Democracy and I oppose the amendment to eliminate the funding in its entirety. It seems to me that just when we are learning to cope with the post-cold war world, and democracy is breaking out around the world, around the planet, we are thrilled to see it happen. But by no means is this some irreversible process. If we look around the world, we see these infant democracies struggling for survival—Central America, Eastern Europe, and the former Soviet Union. Until recently we had to arm ourselves to the teeth against many of these countries and in some cases we had to send troops there or choose to fund the military operations of others to do the work.

We made those tough decisions, and the American taxpayer footed the bill. We now have the opportunity to enhance our security through much less expensive means—by helping to build stable, peaceful democracies where there once were none.

It is true that there are other departments in the U.S. Government which have this task as part of their charge. But by all accounts, the National Endowment for Democracy is an exceptionally cost-effective program, $35 million is a lot of money, to be sure—but it is barely more than 0.1 percent of the money in this appropriations bill. We are not going to generate much in the way of real cost-savings by pulling the plug on NED.

I do agree that even a small program should be killed if it does not produce, if it is not fulfilling its duty. But the individuals who support NED are varied and impressive. Elena Bonner has asked for a continuance of NEW funding—the widow of Andrei Sakharov. I met with those two remarkable people in their apartment years ago. I found them to be singularly impressive people. She is a fearless, determined woman in defense of human rights. I can assure this body that she would not be supportive of NED were it simply an agency out to promote its own political agenda.

Some have noted that many of those calling for a continuance of NED funding are citizens of other countries. That is true. But the proponents of NED funding also include Ronald Reagan and Jimmy Carter—two recent Presidents who differed vastly in their approach to fostering democracy abroad. And yet here they agree, that NED is an important promoter of democracy in the world.

I am willing to listen to arguments on both sides about the proper level of funding for NED, and about whether the $35 million figure is called for in full. But, given the arguments that I have heard from those who are familiar with NED and its activities, I cannot vote for its outright elimination. I urge my colleagues to oppose this amendment and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Chair and I thank my friend from Wyoming for his usual courtesy and his undeserved praise.

Madam President, there may be something I do not understand here. We are talking about a $35 million program out of a $23 billion appropriation. We have been debating now for, by the time this vote is over, about 4 hours.

I understand that there are at least four more amendments pending on this same program, and I do not know how long that will consume.

But it is really remarkable that we should be spending this much time on this particular issue, which has the support of so many people throughout the world.

Madam President, I do not think this issue is about my views. I think this issue is about the views of people who are in leadership positions throughout the world, many of whom have recently emerged from the oppression of totalitarian and Communist governments, some of whom have been leaders in seeking peace throughout the world—Oscar Arias, the Nobel Peace Prize winner who said, "I offer the National Endowment for Democracy and all those involved in its lofty purposes all of my support and solidarity."

Vaclav Havel; Lech Walesa; the President of Albania, Sali Berisha; Elena Bonner, widow of Andrei Sakharov; Prince Ranariddh, who just won a free and fair election in his party in Cambodia; Ukrainian parliamentarians; the Burmese Democracy Movement; Vietnamese human rights groups; and the Latvians.

The amount of support and praise that this particular program has won throughout the world is really remarkable.

Let me just point out a letter from the Latvian Government.

> There is no other U.S. Government program which has done so much to secure democracy, freedom and peace in Latvia. The National Endowment for Democracy supported both morally and financially the efforts of the American Latvian Association, a pro-democracy force in Soviet-occupied Latvia. This support came at a time when other parts of the U.S. Government were unable or unwilling to provide covert help to groups and individuals seeking to reestablish freedom and democracy.

I know very few citizens of the world who are as much admired as Elena Bonner, a person who has certainly understood what it is like to undergo the terrors associated with totalitarian government while struggling to lead her people to freedom. Elena Bonner said:

> The endowment is the only grant-giving organization which focuses its activities in the post-totalitarian countries directly on supporting the work of non-governmental organizations. In this way, it promotes the emergence of civil society, which serves as the basic guarantee that the future development of these countries will follow along a democratic path. . .The closing of the endowment poses a danger which can best be

characterized by the proper verb, "penny-wise, pound-foolish."

Madam President, let me just mention, that yesterday by a vote of 70 to 30 this body decided to fund to the tune of $75 million the marketing promotion program which funds both generic and brand-name advertising abroad for American agricultural products.

Madam President, I happen to have voted for the reduction in that program.

But here we are talking about a marketing promotion program that is far more significant than that of agricultural products. We are talking about less than half the amount of money. I certainly hope that the Senator from Arkansas supported the amendment to reduce the spending for the marketing promotion program because what we are talking about here is a promotion program for democracy and freedom.

In the words of Elena Bonner, "NED promotes the emergence of civil society, which serves as the basic guarantee that the future development of these countries will follow along a democratic path."

Madam President, the seeds of freedom and democracy have been planted throughout the world. These seedlings will wither and die, as we have seen in the past without the nurturing that is vital.

Some philosophers say that democracies are accidents of history. I think we are proving that wrong. Democracies do not happen by accident.

I would like to apologize for some of the comments about the performance of the National Endowment for Democracy and the men and women associated with it. Overall, their work has been outstanding. Their work has been dedicated. Their work—most of them—has been on a volunteer basis, and their commitment to freedom and democracy has been, to some degree, impugned by the criticisms that have been leveled at them today. Some of these statements, such as the statement that National Endowment for Democracy is seeking to unseat Oscar Arias are outrageous.

I do not mind an open and honest disagreement, I say to the Senator from Arkansas. But when it has been proven absolutely false then I say we need to change the level of debate.

So, Madam President, in closing I would like to again urge my colleagues to perhaps put this issue to rest one way or another with this vote. I do not think we need four additional amendments, on basically the same issue, although that is certainly the right of every Member. I think ample testimony has been provided from this President, previous Presidents, leaders throughout the world whom we all admire and respect. And we must, in order to save billions of dollars and perhaps the lives of many young men and women throughout the world, do everything we can to see that these little seedlings of democracy grow to where they are able to withstand the storms that lie ahead of them.

I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina has 10 minutes.

Mr. HOLLINGS. Madam President, quickly, these have been some fascinating arguments. I cannot cover them all. But getting to the Senator from Colorado, who also has several other amendments relative to the National Endowment, I can tell from the feeling and passion he has, that he has discovered the virus of deficit and debt financing here; that it is all a sweetheart deal, log rolling, pork barrel, back patting, you go along with me and I go along with you; up, up and away goes spending and this is the best effort. Absolutely false.

I am handling this bill. In all candor, I have talked to Mr. Gershman, the Director, and others who have worked for NED, and those who benefited from NED. Nobody from the Democratic Party or Republican Party has ever seen me, about NED, and no one from the AFL or the Chamber of Commerce has ever seen me. It is not back patting. It is very deceiving and misleading to try to take that attitude on this program here that I have had to change my mind on.

Specifically, there is also the argument by the distinguished Senator from North Dakota about the waste in the program. He talked about the IG, inspector general's report, that is dated June 14, 1993, but he did not talk about the comments concerning the review of the National Endowment for Democracy, its Core Grantees and Selected Discretionary Grantees, the comments on that particular report.

I ask unanimous consent it be printed in the RECORD at this time.

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

[Comments on USIA Office of Inspector General Audit Report No. A-92-22]

REVIEW OF NATIONAL ENDOWMENT FOR DEMOCRACY, ITS CORE GRANTEES AND SELECTED DISCRETIONARY GRANTEES, JUNE 14, 1993

INTRODUCTION

The review of the National Endowment for Democracy, its core grantees and selected discretionary grantees (hereafter referred to as the "Review" by the Office of Inspector General (OIG), U.S. Information Agency (USIA) represents an attempt to distill conclusions drawn from audits of the National Endowment for Democracy (NED), its four core grantees, and five discretionary grantees for which field work was conducted during the period June 1991 through June 1992. The Endowment appreciates the opportunity to offer comments and to describe the actions already taken and planned to improve our procedures. We will also point out some instances where we believe the "Review" misleadingly exaggerates selected examples without explaining the reasons why an alternate procedure was used.

The "Review" covers the same period (1987–1990) as the 1991 GAO report, and thus it should come as no surprise that some of the same issues were raised in both. Although there is an occasional reference to the improvements we initiated in response to the earlier report, the "Review's" sensationalistic subheadings (e.g. "Grant Award Procedures Were Inadequate," Cash Management Procedures Were Inadequate") convey the impression that the issues raised are both substantial and ongoing. As we show in the specific comments which follow (some of which were incorporated by the OIG as the bottom of a section *without* removing the contradictory and completely misleading heading), neither is the case.

Does this mean that there have been no problems with NED's management of grants? Of course not. We have accepted the challenge of working with groups on the frontline of democracy, many of which are newly formed, have had no experience handling U.S. government funds, and operate in countries where standards of accountability are neither practiced or understood, to educate them in the financial accountability requirements which they must follow. As compliance requirements become more onerous, there is an inevitable tendency to award grants only to larger organizations whose capability to comply with grant requirements has already been established. This is a trend we will firmly resist, since movement in this direction would seriously compromise both the goal of involving a wide array of private-sector groups and the effectiveness of the overall program. It is our firm conviction that there is no discrepancy between involving small activist organizations and ensuring proper accountability, and the Endowment will continue to do both.

CHAPTER 2—FINANCIAL ACCOUNTABILITY

The "Review" notes that effective implementation of the Endowment's new procedures instituted in response to the 1991 GAO report should improve its capability for financial oversight of grantees. The "Review" made the following recommendation:

Recommendation No. 1: "We recommend that NED's Board of Directors enforce terms of the grant agreements and ensure the effective implementation of NED's new procedures."

Endowment Response: The Endowment will continue to improve enforcement of grant terms and conditions and to improve grantee compliance in key areas. In the detailed comments that follow, the Endowment responds to each issue raised in Chapter 2 titled "NED Failed to Ensure Financial Accountability for Federal Funds," and outlines actions already taken and planned to address them.

GRANT AWARD PROCEDURES

Issue 1, Completion of accounting questionnaires

The Endowment's procedures include use of an "Accounting System and Financial Capability Questionnaire" for new grantees. Each of the ten grantees for which the OIG sought questionnaires has been an Endowment grantee for several years, and has usually received more than one grant each year. Initially, completed questionnaires were filed in one of several grant files the first year in which grants were awarded to that organization. Since some of these grantees received their first awards in 1985 or 1986, the Endowment was unable to determine in which grant file three of the ten questionnaires sought by OIG could be found. (It should be noted that OMB Circular A-110,

Attachment C. paragraph 3 requires that records be retained for three yeas following the date of the submission of the final expenditure report; Endowment records were more complete than required by federal regulation.)

Action Taken: In 1990, the Endowment implemented a new filing system for the questionnaires. Since grantees may have more than one grant per year, and there is often a need to refer to the financial questionnaire in the subsequent year, a master file for each grantee organization was established that contains the pre-award questionnaire and subsequent audit-related material. This facilitates quick retrieval of the questionnaires. In addition, a copy of the questionnaire is also filed with the documentation for the initial award to a new grantee.

Action Planned: Beginning with awards made in 1994 (or sooner if possible), the Endowment will further strengthen its pre-award process by reviewing and revising the questionnaire to include items related to management of subawards, and will re-survey organizations that have been grantees for several years to obtain current information.

Issue 2. Resolution of issues prior to award

The "Review" states that some of the questionnaires showed financial control weaknesses which were not resolved before awards were made, including grantees that said they did not (1) keep grant funds in a separate bank account; (2) maintain time sheets; or (3) segregate direct or indirect costs. The "Review" implies that a negative response to any one of the items in the questionnaire would indicate that a prospective grantee could not comply with the grant terms and conditions.

First, it should be noted that the questionnaire was designed as a survey instrument to help determine what kind of accounting system a prospective grantee already has, rather than as a single indicator of whether an organization could comply. The questionnaire is used to determine whether additional information is needed from the prospective grantee, or whether the staff needs to provide the prospective grantee additional guidance to facilitate better compliance with Endowment grant terms and conditions, some of which are unique to NED.

For example, prospective grantees who already have other federal funding and are operating under OMB Circular A-110, which prohibits federal agencies from requiring grantees to physically segregate cash, would logically answer "no" to the question about use of a separate bank account for grant funds. However, since the Endowment has been specifically required by Congress to enforce the use of a separate bank account, after reviewing the applicant's negative response, staff would advise that a separate bank account is a requirement for Endowment funding.

Many proposals submitted to the Endowment request support for projects where funding for salary costs is not needed. For such projects, the use of timesheets is not relevant, as no salary cost is to be charged to the grant. In cases where a prospective grantee's proposal does include a request for direct or indirect salary funds, and the questionnaire indicates that time sheets are not being used, staff advises the applicant of the requirement.

Similarly, the question of segregation of direct and indirect expenses is significant only for organizations with indirect cost rates. Many Endowment grantees are small organizations that do not have indirect cost rates and for which the development of rates would not be cost effective. A negative response to this question is therefore not necessarily relevant to the prospective grantee's ability to properly account for funds on a direct cost basis.

Action: None needed.

Issue 3. Continued award of grants

The "Review" states that "* * * NED continued to award China Perspective grants long after financial control weaknesses were identified. The $1,242,000 awarded by NED between fiscal years 1984 through 1991 to China Perspective illustrates this weakness * * *"

First, it should be noted that the introductory sentence for this issue implies that continued issuance of grants after weaknesses are identified is a pervasive problem. However, the auditors cite only one example to support their conclusion, and, as described below, did not include all the relevant facts documenting the audits that were conducted.

In 1984, the Endowment made its first grant to China Perspective, Inc. (CPI) to support the publication of a Chinese-language quarterly journal The Chinese Intellectual (TCI), launched earlier that year. During its years of publication with Endowment support, TCI has built an impressive reputation of introducing Chinese readers both inside the country and abroad to subjects related to democracy. In 1989, TCI began publication in Beijing and until it was closed with the crackdown by the government against the democracy movement, was the first independent journal of critical thought ever published in the Peoples' Republic of China.

In May 1985, the Endowment Grants Officer, during an onsite review of CPI, identified certain accounting weaknesses as stated in the "Review." However, the Endowment's subsequent efforts in providing technical assistance, monitoring and followup are not mentioned in the "Review." In July 1985, the Endowment Comptroller advised CPI of these weaknesses and made recommendations for improvement of its accounting system and procedures.

In 1986, the Endowment hired an Internal Auditor to assist in monitoring the financial compliance of grantees. One of the Internal Auditor's first assignments was to perform a followup review of CPI's accounting system. On May 6, 1986, on a visit to the office of CPI, the Internal Auditor found that the prior financial weaknesses had not been corrected and noted in her report that "CPI has had problems with their accounting system" and that the President "was not able to get reliable help with his accounting system at this time."

As a result of the Internal Auditor's report, in May 1986 the Endowment Comptroller advised CPI on the accounting and financial management requirement under the grant agreements and requested that documentation be submitted for NED's review of the 1984, 1985 and 1986 grants. The Comptroller also recommended that CPI obtain the services of an accounting firm to gather and organize the supporting documents and files, and set up simple accounting records from which CPI could prepare reliable financial reports.

In July 1986, CPI with Endowment financial support, retained an accounting firm as recommended and hired a bookkeeper. In her August 1986 Report on CPI's accounting system, the Internal Auditor stated that "Subsequent to this review, CPI hired a CPA firm to help resolve their accounting problems. Most of the findings and recommendations addressed in the draft report have been cleared or will be resolved in the near future." In a follow-up meeting between CPI, NED and the accounting firm it was agreed that a compilation of the financial statements would be accepted in lieu of an audit of the Endowment grants. Omitted from the "Review" is the fact that the Internal Auditor reviewed the compilation reports for grants awarded in fiscal years 1984 through 1987, and that costs were accepted based on these compilations.

The "Review" states that the Endowment's Internal Auditor advised that: "It is imperative at this stage that the open 1988 and 1989 grants, as well as all future grants with the China Perspective, have an independent audit." The 1989 telecon record statement from which this quote is taken was not meant to be a recommendation to management to discontinue funding of CPI. The auditor's telecon record note also goes on to state that CPI's President "asked that I audit his grants since he has no funds budgeted for an independent audit. I will schedule an audit of the 1988 and 1989 grants in the first quarter of 1990." The Internal Auditor did audit the 1988 and 1989 grants in the first quarter of 1990. The audit report was circulated to management and contained no findings of noncompliance. In fact, among other details, it states that "The funds requested from the Endowment and received by the China Perspective were deposited in a separate interest-bearing checking account" and "Documentary evidence was available to determine that grant funds were properly disbursed to the Beijing office and the Federation for a Democratic China under the terms of the grant agreements." There were no questioned costs on either grant.

There were no gaps in audit coverage as implied in the "Review." The external independent audit report for the fiscal year ending June 30, 1991 covered the entire 1990 grant and five months of the 1991 grant. This audit did disclose a nonmaterial instance of noncompliance involving commingling of funds in the checking account, which was communicated in a management letter. The President of CPI has responded to this compliance issue, affirming that CPI will maintain NED funds in a separate checking account. The auditor was able to satisfy himself regarding identification of grant-related expenditures and supporting documentation.

The above facts clearly demonstrate that the Endowment effectively monitored its grants to China Perspective.

Action: None needed. The Endowment will continue to provide necessary guidance and assistance to grantees to improve their ability to comply with grant terms and conditions, and will monitor their compliance through the usual reporting and auditing mechanisms.

Issue 4. Written accounting procedures

The "Review" states that grantees including Freedom House and the Institute for Democracy in Eastern Europe (IDEE) lacked written accounting procedures. Freedom House's comments on its individual draft audit report include its written accounting procedures as an attachment; apparently, the written procedures were overlooked by the contract audit firm. While written accounting procedures are preferable, the lack of such procedures does not mean that funds will be misspent, especially in a very small organization such as IDEE, which, during the period covered by the audit, had only two employees.

Action Planned: In the revised "Accounting System and Financial Capability Questionnaire," to be implemented for FY94 grants, applicants will be asked to supply a

copy of any available written accounting procedures. However, the questionnaire is being redesigned to elicit information that will enable Endowment staff to better determine whether an organization without written procedures can properly account for grant funds.

Issue 5. Grant management policies and procedures

The "Review" states that NED also awarded grants to several grantees who had not established the necessary polices and procedures for managing grants.

The Endowment's first priority in selecting organizations as "U.S. grantees" to administer grants for foreign subrecipients has been the organization's ability to effectively carry out the Endowment's congressional mandate of promoting democracy. Many of the most effective and committed organizations in this area are small and are not grants administration experts. With the possible exception of IDEE, none has grantmaking as its prime focus. All agreed to administer Endowment grants because they wished to contribute to the promotion of democracy. Their involvement in the process serves to broaden the participation of U.S. private sector groups in the development of democracy overseas. The U.S. grantees have provided valuable technical and moral support to the foreign subrecipients, some of whom operated under very repressive conditions.

Had the Endowment made its only objective strict compliance with all requirements in the NED Act, the USIA/NED grant agreements covering the Endowment's annual appropriation, AID/NED funding agreements, and the relevant OMB Circulars, we would have sought a different type of U.S. organization to administer awards to subrecipients. Instead, the Endowment, while not minimizing the need for the U.S. grantee to use acceptable accounting and grant monitoring processes for its subrecipients, seeks to facilitate cooperation between organizations working for common goals.

Action: None needed. The Endowment will continue to provide additional technical assistance to those U.S. organizations that will administer awards to subrecipients to strengthen their ability to comply with Endowment grant terms and conditions.

Issue 6. Subagreements with overseas subrecipients

The "Review" implies that the Endowment should have ceased awarding grants to organizations that did not sign written subagreements with overseas subrecipients. Through 1991, the Endowment recommended, but quite intentionally did not require, U.S. organizations to use written subagreements. Many of the subrecipients were operating in closed societies and could not sign subagreements without putting themselves in jeopardy. Since the Endowment was not requiring the use of written subagreements, their non-use by some of the U.S. organizations acting as grant administrators cannot be considered a "material deficiency" or compliance issue, as indicated in the "Review."

The example cited in the "Review" is erroneous. The American Institute for Free Labor Development (AIFLD), which received Endowment funds through the Free Trade Union Institute (FTUI), does not normally make traditional subawards. Its Country Program Directors (based overseas) closely control funding for local labor organizations through provision of small advances on an activity-by-activity basis, with supporting documentation collected and reviewed after each activity prior to issuance of a subsequent advance. The Endowment currently requires that FTUI's regional institutes execute written subagreements with organizations receiving advances in excess of $10,000.

Action taken: As indicated in the Endowment's response to the GAO report, for awards made in 1992 the Endowment changed its policy with respect to the use of subagreements. Recognizing that there are now many fewer countries where subrecipients may be in jeopardy if they are associated with Endowment funding, the Endowment made a written subagreement a requirement, exempting only those cases where security risks still exist.

CASH MANAGEMENT

Section I, Endowment drawdowns from USIA

As explained in the Endowment's comments on the draft individual audit report covering its administrative costs, it was impossible for the Endowment to have drawn down funds from the "correct" grants in every instance since there have been frequent and substantial delays in USIA's processing of both the annual grant to the Endowment providing its annual appropriation and the associated increase in the Letter of Credit (LOC). For example, the USIA/Endowment Grant Agreement covering the period October 1, 1985 through September 30, 1986 was not signed until May 1, 1986 (eight months into the fiscal year), and the LOC was not amended until two weeks later. The subsequent grant agreement for FY87 was not fully awarded to the Endowment until January 27, 1987, and the corresponding amendment to the LOC allowing the Endowment to draw down FY87 funds was not completed until February 18, 1987. Until each year's grant agreement and LOC are completely processed, there is no option but to continue operations by drawing down funds that remain available from prior fiscal years.

The figure of $9,452,000 is indicated as having been incorrectly drawn down, leaving the erroneous impression that this amount has somehow been misused. In fact, the drawdown method (which was unavoidable given the delays in USIA's procedures) never resulted in the Endowment's having overobligated or overdrawn the amount appropriated to it in any fiscal year, since each drawdown was fully supported with backup documentation indicating which Endowment grant award or activity the funds were supporting.

As acknowledged in the "Review," the Endowment's annual appropriations for FY92 and FY93 are to remain "available until expended" under the terms of the Department of State and Related Agencies Appropriation Acts for those years; this should improve the Endowment's ability to draw down funds from the correct year.

Action Taken: (1) As explained in our comments dated February 10, 1993 on the final audit report, the Endowment has previously drawn down all available funds for fiscal years prior to 1991. However, there are a few remaining payments to be made to grantees under awards issued by the Endowment in 1988, 1989, and 1990. Unless otherwise requested by USIA, the Endowment will continue to draw down funds for payments related to its older grants from funds remaining in the USIA/NED FY1991 grant, and draw down FY92 and FY93 funds only for specific obligations directly relating to those periods. (2) Assuming that USIA makes both the Grant Agreement and the corresponding new funds available to the Endowment at the start of each fiscal year, the Endowment will draw down funds from the correct award.

Section II: Recipient Drawdowns from the Endowment

Issue 1. Drawdowns exceeding need

The examples of drawdowns in excess of need cited in the "Review" and the individual audit reports on FTUI and the International Republican Institute (IRI) result from partially erroneous conclusions on the part of the auditors, without reference to either programmatic context or materiality of the amounts relative to the grantee's overall operations.

The auditors have not recognized (a) that the core grantees are typically providing funds to their subrecipients on an *advance payment* basis, (b) there may be a significant time lag between the time when the subrecipient incurs costs and the time its expenditure report is submitted, and (c) operating funds are still required in the interim. Further, the two examples discussed in the "Review" (FTUI, Poland/Solidarity and IRI AID/Nicaragua 1990) were unique cases that did require extraordinary cash management procedures. As explained in FTUI's comments on its individual audit report, Solidarity was actually spending much more rapidly than it was possible to report, since reporting went from regional offices to Gdansk headquarters to the Brussels Coordinating Office (by courier in the pre-1990 period) and then to FTUI.

The "Review" also states that IRI had drawn down $500,000 in excess of costs incurred during fiscal year 1990. However, as explained in IRI's comments on its individual audit report, $234,247 of the $500,000 on hand as of September 30, 1990 was attributable to the special AID/Nicaragua 1990 activity, and IRI was waiting on the final reconciliation from a concurrent Price Waterhouse audit report (received in early 1991) before making the refund to the Endowment. The remaining amount ($265,563) is just over half of one month's average expenditure of $476,566 for FY90, not an excessive amount of funds to have on hand.

Action: None needed. The Endowment will continue its long-standing procedures to help prevent excessive buildup of cash balances. Every drawdown request requires that the grantee state the amount of cash on hand; the Endowment's review of drawdown requests includes comparison of the expenditures reported through the end of the most recent reporting period with the cash on hand figure. If the drawdown appears to be unwarranted given the amount of expenditures reported, the grantee is asked to explain. There are also instances in which the grantee requests funds that exceed the cash flow projection; the Endowment carefully considers the reasons for such requests and advances additional funds if the need is justified.

Issue 2. Return to interest

The "Review" indicates that FTUI and IRI had not returned interest income on advances of grant funds as promptly as required under OMB Circular A-110. Both FTUI and IRI, in their comments on their individual audit reports, agree that interest could have been returned more promptly. Both have fully refunded the amounts indicated in the draft audit reports, and have implemented procedures to ensure that more timely refunds are made in the future.

Action Taken: Return of interest was an issue also identified by GAO. As indicated in the Endowment's response to the GAO report, steps have already been taken to improve our ability to monitor and enforce the requirement for grantees to return interest

earned on advances of grant funds. Each grantee and subrecipient receiving advances must indicate on its verification of separate bank account form, completed before the initial drawdown is paid, whether funds will be held in an interest-bearing account. Each periodic financial report then asks the grantee to indicate how much interest was earned during the reporting period.

BUDGET LIMITATIONS

The "Review" states that "NED did not always enforce the budgetary controls included in its core grant agreements..." The "Review" cites a figure of $815,000 by which the National Democratic Institute for International Affairs (NDI), FTUI, and IRI together exceeded individual project budget flexibility limits without the required prior Endowment approval.

The "Review" quotes this combined figure without providing contextual information that demonstrates that both the incidence and dollar amounts are quite low relative to the total numbers of projects and total amount of funding the Endowment awarded to these organizations during the period covered by the audit. For example, the nine projects in which NDI exceeded budget flexibility limits constitute only eight percent of the 112 projects during the period. The amount of $198,974 quoted for NDI as being in excess of project budget flexibility limits is less than 1.8 percent of the $11,313,324 awarded by the Endowment to NDI in fiscal years 1988–1990. Nor does the "Review" explain that while costs for a few of the core grantee projects exceeded the budgets, these excess costs were in every case offset by savings in other projects within the same grant. Not a single penny of additional public funds was needed beyond the amounts already obligated by the Endowment to the core grantee as a result of this compliance issue.

A figure of $1.9 million is quoted in the "Review" as the aggregate amount by which NDI, FTUI, and IRI exceeded line item flexibility limits (within projects budgets), for which they were to have provided notification to the Endowment within 60 days after making the adjustment. Again, the combined total for the three organizations is cited without reference to the total dollars audited or total number of line items involved in the dozens of projects during the period. In the absence of an explanation that no additional funds were required as a result of this compliance issue, an erroneous impression is created that public funds were being misspent. In each and every case, costs in excess of the projected amounts in each line item were offset by savings in other budget line items. NDI exceeded line item flexibility limits on 17 out of 698 line items, or two percent of the total line items, in the grants reviewed by the auditors. The dollar amount, $457,336, is four percent of the total amount of $11,313,324 awarded by the Endowment to NDI during 1988–1990.

The individual audit reports on NDI, FTUI, and IRI each recommend that the Endowment (1) more effectively monitor core grantee compliance with the guidelines for budget flexibility, (2) cease to allow after-the-fact reprogramming if prior approval was not obtained, and (3) modify project and line item flexibility limits to require prior approval for both.

Action Taken: (1) The Endowment has always reviewed and monitored core grantee expenditures reports, comparing amounts budgeted for line items and projects with expenditures reported. Where problems are noted, follow-up letters are sent requesting additional information. The Endowment has increased its capacity for financial monitoring of core grantees by adding a grants administrator to the Finance/Grants staff to exclusively handle administration and monitoring of awards to core grantees.

(2) Given the nature of the Endowment's work, there are often circumstances beyond the control of the grantee that affect the costs of a project, and in some instances, whether the approved project can be completed at all. The Endowment recognizes the need to provide its core grantees with some flexibility to manage their programs, and will continue to allow after-the-fact reprogramming when its is warranted.

(3) In 1992 the Endowment adjusted its previous budget flexibility limits for core grantees; in addition, core grantees now must obtain prior approval when they anticipate exceeding the line item as well as the project budget flexibility limits.

ADMINISTRATIVE COSTS

The "Review" states that "NED's grant agreements with three core grantees (IRI, NDI, and FTUI) did not provide for the allocation of certain program salaries and benefits and administrative costs to programs other than USIA-funded NED grants in Fiscal Years 1988, 1989, and 1990 as required by OMB Circular A–122." A total of $2,765,994 is shown as "overallocated to USIA" and "underallocated" to other sources, including (1) Endowment grants to core grantees for which funds were awarded to the Endowment from the U.S. Agency for International Development (AID), (2) direct grants between AID and the core grantees, and (3) the core grantees' non-Federal funds.

Neither the "Review" nor the individual audit reports explain that costs questioned for this reason did not result in any overexpenditure of public funds under any Endowment or AID grant; this is an issue of the types of costs (programmatic versus administrative) that have been supported from the Endowment's annual appropriation versus the types of costs that have been supported by other sponsors.

There are two principal reasons why the budgets in the Endowment grants for the period audited did not provide for a different allocation of administrative costs:

"Several of the Endowment grants awarded by AID during 1987–1990 were for specially earmarked funds appropriated by Congress for Poland, Chile, and Nicaragua, for which the legislative history showed that the intent of Congress was to maximize the amount of money provided to the designated end user and minimize the amount used for administrative costs by intermediary organizations.

"The Endowment was already funding (from its annual appropriation), on a direct cost basis, a basic administrative capacity at each of its core grantees, and the additional work associated with handling the special appropriations or funds awarded directly by AID did not require an increase in that capacity. Inclusion of additional administrative funds in other Endowment grants awarded to the core grantees would have been duplicative, wasteful, and a misuse of public funds appropriated for other specific purposes."

During this period only two core grantees received funds directly from AID, and these were for infrequent, short-term activities that were completely compatible with Endowment objectives and might have been funded by the Endowment were it not for the stringencies imposed by the level of its annual appropriation. The core grantees were consistently allocating costs using a direct method that followed the budgets in the various award documents from the Endowment and AID. All core grantee activities were supporting program objectives within the Endowment's six purposes.

The auditors' after-the-fact computations of indirect cost rates (which are the basis for the amounts quoted as "overallocated" and "underallocated" for these prior periods) appear to be based on total administrative costs incurred in each of the three years divided by total expenditures. The category labelled "administrative costs" by the auditors includes some costs which, under an indirect allocation scheme, would be considered direct costs. The indirect cost rates calculated by the auditors therefore do not accurately reflect what the indirect cost rate would have been if it had been properly developed and negotiated. Further, the indirect cost rates calculated by the auditors do not take into account the fact that the high-dollar value 1990 Nicaragua activity consisted largely of support grants to three Nicaraguan subrecipients and contained funds to cover all associated incremental administrative costs, thus further distorting the imputed rates for NDI and IRI in 1990.

Incremental administrative costs associated with core grantee programs supported by NDI and IRI's non-Federal funds during the audit period were paid from those non-Federal funds. (FTUI's non-Federal funds consist only of a small representational allowance provided by the AFL–CIO.)

During 1990, when substantial funding became available to the Endowment through AID for work in Eastern Europe, the Endowment encouraged core grantees to budget for the needed incremental administrative costs associated with the implementation of those Endowment programs and others that they were negotiating directly with AID. Beginning in 1991, in order to ensure that its annual appropriation was not being unreasonably used to support substantial administrative costs associated with programs funded by other agencies, the Endowment, in considering each core grantee's administrative cost budget for the year, asked core grantees to provide information about the grantee's non-Endowment programs, including the amount of administrative cost support contained in each.

Action Taken: Since 1991 the core grantees have obtained increased levels of funding from AID on a direct basis, a pattern that will likely be followed in the future. The core grantees submitted indirect cost rate proposals immediately following the August 1992 designation of USIA as their cognizant agency for rate negotiation. Provisional rates have been established for three of the core grantees. Although the fourth grantee's rate proposal was submitted in September 1992, as of June 1993, USIA has not issued a rate agreement.

TRAVEL, PER DIEM AND ENTERTAINMENT CHARGES

The "Review's" discussion of these issues creates the impression that the Endowment's grantees routinely use first-class airfare and charge unallowable alcoholic beverage and entertainment cost to Endowment grants. In fact, the $29,878 questioned for these reasons total less than four-hundredths of one percent of the Endowment's total federal awards in 1988–1990.

Issue 1. First-class airfare

Only one of the ten individual audit reports cites any instances where grantees used first-class air service, yet the "Review" states "NED's core grantees have claimed

. . ." thus, attempting to give the appearance of a widespread problem based on a very limited incidence (only $23,278 was questioned for this reason). In several of the cases initially questioned by the auditors, IRI's explanations that several of the first-class fares fell under allowable security and medical exceptions were accepted and the amount of costs questioned for this reason was reduced in the final report on IRI.

Action Taken: The Endowment Grants Officer has disallowed $12,662 in unallowable first-class fares in resolving the IRI audit recommendations.

Issue 2. Business class airfare

The individual audit report on IRI questioned about $205,000 of business class airfare (in excess of economy airfare) as unreasonable (although allowable) under Endowment grants. The class-of-service standard set by the USIA/Endowment grant agreement, OMB Circular A-122, and the Endowment agreements with all grantees during the period covered by the audit is "less-than-first-class." In 1992, based on the fact that the federal government has revised both the Federal Travel Regulations and OMB Circulars that govern allowability of costs incurred by other types of organizations (although OMB Circular A-122 governing non-profit organizations continues to allow "less-than-first-class"), the Endowment has restricted use of business class under grants to trips in excess of 14 hours or that meet other specified exception criteria.

Action Taken: The Endowment has established a more restrictive policy for use of business class service, as described above. In resolving the IRI audit recommendations, the Endowment Grants Officer disallowed of $8,014 in unreasonable business class airfare.

Issue 3. Alcoholic beverages and entertainment costs

The Endowment and all grantees are aware that these types of costs are not allowable. A very limited amount of costs ($6,600) were mistakenly charged to Endowment grants for such expenses, and grantees have indicated that they will reimburse amounts as discussed in their comment documents.

Action Taken: The grantees have acknowledged that such costs were improper and will repay the amounts, which were all disallowed by the Endowment Grants Officer.

ACCOUNTABILITY FOR NON-EXPENDABLE PROPERTY

The "Review" states that "NED's grantees have not established proper controls over non-expendable property purchased with federal funds . . ."

According to the individual audit reports, some Endowment grantees do not have adequate property management systems. In most cases, however, we feel that the draft individual audit reports overstate the extent of the problem. For example, although the Center for International Private Enterprise's (CIPE) inventory list was missing only a few serial numbers which were subsequently obtained, the individual audit report considers this to be an "internal control reportable condition," which is defined as "a significant deficiency in the design or operation of the internal control structure that, in the auditor's judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements." It seems unlikely that the lack of a few serial numbers could materially affect the organization's financial statements.

In their attempts to comply with grant terms and conditions, grantees generally devoted more time and resources to other compliance issues, and did not give adequate emphasis to the property management requirements.

Action Taken: All grantees to whom the property management finding applies have commented that they will take steps to improve their property management systems (individual target dates have been established where appropriate). Better enforcement by the Endowment, and compliance by grantees and subrecipients will generally require that additional staff time and resources be devoted to obtaining, maintaining, and cross-checking lists of equipment and other non-expendable property, and conducting physical inventories.

VERIFICATION OF SUBRECIPIENTS' CLAIMED COSTS

One of the major recommendations in the March 1991 GAO report was that the Endowment needed to improve its audit coverage, particularly for costs incurred by foreign subrecipients. Since the OIG audit covered the same time period as the GAO audit, the OIG is also making the same recommendation. The Endowment's July 1991 response to the GAO report describes plans to improve audit coverage, including implementation of OMB Circular A-133, which became effective for the Endowment in 1991 (after the period covered by the OIG audit).

Action Taken: The Endowment has implemented OMB Circular A-133 audit requirements by incorporating them into every grant agreement and subagreement. The Internal Audit staff obtains and reviews the required audit reports; the Grants Officer handles resolution of audit findings.

Action Planned: Because of the high cost of conducting audits in accordance with OMB Circular A-133 requirements (see discussion in the next paragraphs), during FY1994 the Endowment plans to develop and present for approval an audit policy and strategy based on OMB Circular A-133 that would suggest alternate, more cost effective means of verifying grantee costs.

As noted in the Endowment's response to GAO, one effect of conducting audits in compliance with OMB Circular A-133 has been to dramatically increase the amount of staff effort, and therefore the administrative costs, needed to identify audit firms, obtain bids, engage auditors, review their reports, and resolve the audits. The Circular requires that each grantee and subrecipient that receives more than $25,000 in federal funds in a year is required to have an audit. (The Endowment's previous policy was to require an audit of grants over $50,000.) In 1992, under the Endowment's discretionary program, about $6.54 million was awarded from the annual appropriation in 143 grants averaging about $46,000. Since recent experience shows that independent auditors fees are about $3,000-5,000 per audit, and grants involving a primary grantee and a subrecipient (about two-thirds of the discretionary portfolio) will require two audits, the annual cost for audit fees for the discretionary program alone could be over $1,000,000.

The above figure does not include the cost of additional Endowment staff time to select, contract, review, and resolve audits, nor the cost of the Endowment's own annual A-133 audit. Likewise, it excludes similar costs associated with core grantee audits of their subrecipients and their annual A-133 audits. Such high costs suggest serious policy questions (raised by members of the Foreign Affairs Committee during the hearings on NED's 1992 authorization) regarding the cost effectiveness of conducting these audits compared to the value of disallowed costs that might be identified and recovered.

In addition to the above discussion of the actions taken and planned by the Endowment to improve verification of grantee expenditures, we would also like to comment on the examples shown in the "Review," which often neglected to describe the context in which some of the activities involving closed societies in Eastern Europe were conducted or the alternate verification measures that GAO evaluators told us they found acceptable given the circumstances.

Section I: Desk Reviews

The individual audit report on FTUI and the "Review" both state that FTUI accepted supporting documentation in French even though its staff lacked the language skills to review the documentation properly. In the example discussed, involving $306,226 of equipment purchased for Bulgaria and Romania, the auditors overlooked a report prepared in English by the purchasing agent that detailed each item, the cost in both foreign currency and U.S. dollars, and other supporting information, in addition to the actual purchase invoices. FTUI's comments on its audit report show that FTUI did have staff with appropriate language capabilities.

The FTUI audit report and the "Review" also state that FTUI accepted subrecipient claimed costs totaling $1.8 million even though the expense reports and the accountants' reports did not disclose or verify how the grant funds were spent. Neither the audit report nor the "Review" explain that this finding relates to the two special congressional appropriations of $1,000,000 each in support of the Polish trade union Solidarity during 1988 and 1989, for which GAO had found reporting and verification procedures admirable given the circumstances in which the activities occurred, as further described below.

In mid-1990 a team from GAO, during its review of the Endowment conducted fieldwork at the Solidarity Coordinating Office in Brussels, Solidarity Headquarters in Gdansk, and at Solidarity's regional office in Warsaw (one of 14 regional offices in Poland). In briefings with Endowment staff on the results of GAO fieldwork, the GAO Evaluator-in-Charge praised the high level of accountability exhibited by Solidarity under the most difficult of circumstances. He described the system that had been used to provide equipment and funds to Solidarity in Poland during the underground period as follows:

FTUI sent Grant funds to the Solidarity Coordinating Office in Brussels. The Solidarity Coordinating Office used some of these funds to purchase equipment and supplies which were then smuggled into Poland. Funds were also taken to Poland via couriers who usually carried no more than $5,000 per trip. The courier obtained a receipt from the Solidarity official acknowledging receipt of the funds, which he carried back to Brussels and gave to a trusted official at the International Confederation of Free Trade Unions (ICFTU). This was done in order to provide confirmation of the transfer of funds by an independent source other than the Solidarity Coordinating Office. After ICFTU verified the acknowledgement receipts against the amounts sent to Poland by the Coordinating Office, the receipts were destroyed to reduce the risk of compromising the individuals who were involved in the transfers. Each year the ICFTU officials prepared a certification for the Coordinating Office attesting that all funds transferred to Poland had been received. The GAO evaluators saw copies of these certifications.

The cash taken to Poland as described above was used for expenditures made by Solidarity headquarters in Gdansk and for expenses at each of the 14 Solidarity regional offices. GAO evaluators were told that each regional office provided periodic reports to headquarters in Gdansk, but did not send the supporting documentation, which was maintained at the regional offices.

The regional offices submitted expenditure reports to the headquarters in Gdansk, and Gdansk in turn forwarded the reports to the Coordinating Office in Brussels, which reported to FTUI. According to GAO evaluators, Solidarity officials told them that during the martial law period the Solidarity national Committee and regional audit committees verified expenditures that were being reported to the headquarters office in Gdansk. Following this verification process, the supporting documentation was destroyed, again, to reduce the risk that individuals whose names appeared on the documents might be put in jeopardy.

At the time of the GAO visit in mid-1990, supporting documentation for the October-December 1989 period for the Warsaw regional office expenditures had not been destroyed, and the GAO team was able to verify that there were no discrepancies between the expenditure report submitted to the Gdansk headquarters and the supporting documentation for that period. Similarly, at the Gdansk headquarters, the GAO team was able to verify that the expenditures incurred by headquarters during the July-September 1989 period matched the supporting documentation which was still on hand. The GAO was unable to visit all 14 regional offices, but their reviews in the Warsaw regional office and Gdansk headquarters revealed no problems at those sites during the periods tested.

In addition, the GAO team traced expenditures reported to supporting documentation for the Coordination Office in Brussels (for costs incurred there) for the July-September 1989 period. The GAO found that all expenditures claimed were supported by receipts, and the team told us that the accounting records maintained by the Brussels office were the best that they had encountered during their fieldwork.

Although supporting documentation for expenditures made with cash sent to Poland during the martial law and early transition periods was destroyed to reduce the risk to the individuals involved, the acknowledgement, documentation, and internal Solidarity reporting and audit procedures reviewed by GAO provided reasonable standards of accountability and assurance that expenditures were being adequately reported to FTUI given the circumstances at the time.

Similar conditions during the underground period covered by this audit affected the ability of both the Polish American Congress Charitable Foundation (PACCF) and IDEE, and to some extent Freedom House, to obtain and verify subrecipient supporting documentation. In these cases, alternative means of verifying that funds reached intended recipients and that programmatic activities were conducted were used. Acknowledgement methods include coded references in underground publications. Examples of such acknowledgements are found in PACCF's comments, which were printed in OIG Audit Report A-92-19. Verification was often through provision by the subrecipients of copies of materials produced with grant funding—i.e. the actual work products. Further discussion of the means used by each of the grantees is found in their individual comment documents.

The "Review" implies that the U.S. grantees should have accepted only original supporting documentation from their subrecipients. As described above, it was impossible during the underground period for many subrecipients to keep, much less send out, their original supporting documentation. Further, the Endowment does not require that subrecipients submit their original documentation to U.S. grantees. In many countries, local tax and audit laws require that organizations keep their original supporting documentation. As quoted in the "Review," the Endowment does require that information submitted by subrecipients be verified. In instances such as those described above it was necessary to use alternative verification means.

Section II: On-Site Financial Reviews

Some grantees used on-site financial reviews as part of their verification process for costs incurred by foreign subrecipients. Since Endowment grantees are also expected to monitor the programmatic progress and achievements of their subrecipients, core grantees will typically send a program officer (rather than a member of the financial staff) to visit the subrecipient. While program officers cannot be considered auditors, it is our experience that they can be trained to recognize potential financial or compliance problems through a review of the records and discussions with the subrecipient staff. This is a more cost-effective way to accomplish both types of monitoring, since it is less likely that a financial staff member would be able to recognize potential problems with the program.

As a part of the visit, the program officer may review the supporting documentation and accounting records for the project. Further, many times their insight into the personalities of the people implementing the program, and their ability to interview and question when they believe that something may be amiss with the project, will be more important to uncovering potential problems than auditing skills. If the program officer suspects that their may be financial problems with the project, the next step would usually be to send a financial staff member, or to arrange for an independent audit of the records.

Section III: Audits by Independent Accounting Firms

The "Review" states that CIPE was the only grantee sampled which relied primarily on audits by independent accounting firms to verify subrecipient claimed costs. This statement recognizes that all grantees that were audited by the OIG relied on independent audit, although some did so to a greater extent than others. IDEE and PACCF, for example, arranged for independent audit of subrecipient costs in instances where the Endowment did not waive the audit requirement. Freedom House and the Joint Center for Political and Economic Studies (JCPES) included awards to subrecipients in their organization-wide annual audits conducted in compliance with OMB Circular A-110, as did the other core grantees. As explained in the "Review," CIPE has now completed most of the audits that had not been finalized at the time of the OIG audit and taken steps to maintain the integrity of its audit plan.

CHAPTER 3—SOLICITATION OF PRIVATE CONTRIBUTIONS

Recommendation No. 2: "We recommend that NED's Board of Directors require NED to establish guidelines for maximizing the solicitation of private funding as encouraged by Public Law 102-138."

Endowment Response and Action Taken: In April 1993, the Endowment's Board of Directors approved guidelines responsive to the "sense of the Congress" resolution on private contributions, as encouraged in P.L. 102-138.

The relevant section of Public Law 102-138 reads: "It is the sense of the Congress that the National Endowment for Democracy should make every effort to solicit private contributions to realize the purposes of the Endowment as set forth in section 502(b) of the National Endowment for Democracy Act."

Although the language of the resolution might be interpreted as endorsing general fundraising which would increase the amount of funds available for NED to make grants, the questioning by Senator Brown at the authorization hearing which led to passage of the sense of the Congress resolution (part of which is quoted in chapter three of the "Review") strongly suggests that it was specific project-related fundraising which he had in mind. The following comment is illustrative:

"One of the things that I think is important here that is a good measurement is whether or not this has been used as seed corn to draw money from the private sector, where the projects that have been done are so good that others have been willing to put up their money to match this." (Transcript of Hearings before the Subcommittee on Terrorism, Narcotics and International Operations, Committee on Foreign Relations, U.S. Senate, March 21, 1991 p.41)

Given the intent of Senator Brown in proposing the resolution, the clear prohibition against using government funds to conduct fundraising campaigns,[1] and the virtual impossibility of foundations such as NED raising funds for general purposes from other foundations (which understandably prefer to target their contributions to grantees of their choosing), it can be assumed that the funds Congress wants the Endowment to help solicit are for specific projects NED is funding.

It has been a long-standing policy of the Endowment to encourage its grantees to seek additional funds to complement NED-funded projects. This was set forth in the Statement of Principles and Objectives drawn up in 1984 and reaffirmed in the Strategy Document approved by the Board of Directors in January 1992. ("In all circumstances, the Endowment will continue to encourage efforts by its grantees to seek other sources of funding, and where possible will assist in those efforts.")

A good example of an organization whose support from NED has reflected a smaller and smaller percentage of its total support is Conciencia, the enormously successful women's civic organization in Argentina, which has served as a model for similar women's groups throughout Latin America. In its early days, NED support was vital in keeping the organization alive. Still, it was encouraged by the Endowment to seek other sources of support, and by 1991 the NED award reflected only 57 percent of its total operating funds, with the balance provided by other donors. Furthermore, as a result of sizeable in-kind contributions from individuals and organizations within Argentina,

[1] Attachment B, paragraph 19b of OMB circular A-122, which governs allowability of costs for nonprofit organizations (including the Endowment and its grantees), reads: "Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable."

NED funding in 1991 represented only 22 percent of Conciencia's total budget.

As a result of the good relationships NED has developed in the foundation community, it has had some success in persuading donors to support many of its grantees. Additionally, private groups in the U.S. administering grants to groups have helped raise additional funding for projects supported by the Endowment. A good example is the broadcast equipment project funded through Northeastern University, (discussed in Chapter 5 of the OIG "Review"). The total grant (with AID funds) was $173,200, and the grantee, Northeastern University, contributed an additional $100,000 to the project. It is also worth pointing out that many U.S. grantees, by agreeing to administer their NED grants at no cost or at a small percentage of the total actual administrative cost, provide their own significant in-kind contributions.

The "Review's" discussion of the private contributions received by the core grantees focuses entirely on cash contributions. Overlooked are important in-kind services contributed by experienced party, business, and trade union leaders from around the world who frequently are called upon to conduct training seminars with no compensation beyond those travel expenses allowed by government regulations. Such free services by expert democratic leaders, many of whom have been actively engaged in democratic transitions in their own countries, have enabled the core grantees to keep the costs of key projects to a fraction of what they would have been if consulting fees were paid. (NDI estimates the cost of paying its volunteer trainers a standard daily consulting fee during a one-year period from 1991–92 at $800,000. IRI estimates that similar in-kind contributions for the period of the audit total over $600,000.)

Moreover, through the identification of program co-sponsors, NDI and IRI raise additional private contributions. As an example, in January 1991, NDI proposed to organize a series of three regional programs to strengthen political parties throughout Eastern and Central Europe. For this program, NDI originally requested $378,450 from the Endowment. To date, NDI has utilized only $88,500 of these Endowment funds and has implemented three regional party-building programs, as well as two follow-on programs. This successful project has been possible because, in addition to $250,000 received from AID for this effort, the NDI program received support from the European Studies Center in Stirin, Czechoslovakia, the Dettmeyer Foundation of the Netherlands and two of the European Parliament's party groupings (affiliated with the Christian Democratic and Social Democratic parties). Their contributions included per diem and airfare costs for participants and trainers, as well as the costs of renting conference facilities.

Together, the contributions of these organizations totalled about $105,000. Furthermore, the Dettmeyer Foundation and the Christian Democratic party grouping of the European Parliament have organized follow-on seminars in which they have assumed the bulk of the costs ($50,000–$60,000). NDI's contribution has been $10,000–$15,000 for the airfare and per diem of Eastern European participants. NDI also received in-kind contributions totalling $48,750 in the form of time volunteered by 39 trainers for five days each.

In addition to these in-kind contributions to the core grantees in the form of free consulting services, the Endowment holds ongoing consultations with the leading experts—academics as well as practitioners—to help assess both specific discretionary project proposals and the overall direction of the program. Their compensation has been the satisfaction that they are contributing to a worthwhile cause.

CHAPTER 4—USIA'S FINANCIAL OVERSIGHT

Recommendation No. 3: (Directed at USIA) "We recommend that the Associate Director of the Bureau of Management in conjunction with the Bureau of Policy and Programs and the Office of Inspector General determine which organization will have financial oversight responsibilities over NED, and if appropriate, redelegate M Bureau's current authority and spell out precisely what the financial oversight role entails."

Endowment Response: None required. Comments below offered from Endowment perspective on this issue.

The "Review" asserts that USIA "has not fully implemented its financial oversight responsibilities under the Act to ensure that grant funds awarded to NED are used for authorized purposes." It places this oversight authority in the hands of USIA's Bureau of Policy and Programs (P Bureau).

The Endowment does have a cooperative relationship with the P Bureau, which has served as the point of contact within USIA for sharing information about NED's programs. Similarly, the Endowment consults informally with USIA's Freedom of Information Coordinator on matters related to implementation of FOIA; with its Office of Comptroller with respect to the annual budget submissions to OMB and the Congress; and with USIS posts abroad in sharing information concerning current or prospective grants. But in each of these instances, the relationship is informal and voluntary (the only exception being a requirement in NED's FOIA regulations for USIA to review all NED denials of FOIA requests). A more official relationship exists with the Office of Contracts in the "M Bureau," the unit officially designated within USIA for issuance and administration of the annual grant of the Endowment's congressional appropriation.

The Endowment welcomes the constructive consultative relationships it has developed within USIA and looks forward to continuing them. But it needs to be emphasized that any oversight role beyond the financial one found in the authorizing legislation would call into question the very independence which the Congress has mandated. Indeed, in his 1985 decision affirming the financial oversight role of USIA (quoted in the "Review"), the Comptroller General specifically rejected the notion that NED was subject to additional oversight:

"We agree, and conclude that USIA, as administrator of grant assistance to the Endowment, has a duty to ensure the Endowment's compliance with such requirements through the exercise of appropriate financial controls. However, USIA may not, in its exercise of financial control over the Endowment, impose restrictions not specifically intended to fulfill the purposes specified in the authorizing legislation, or that are not otherwise separately applicable by statute. [Decision of the Comptroller General of the United States], File B–203681, June 6, 1985, p.8.

Since the agency's oversight role with respect to the Endowment is a financial one, it seems most appropriate, from the Endowment's perspective, that it be the responsibility of the M Bureau (as currently delegated) and the OIG (through the audit function). The Endowment will continue to conduct informal programmatic consultations with USIA Washington and field offices, and provide P Bureau with project descriptions of proposals being presented to the NED Board, as well as copies of signed grant agreements.

CHAPTER 5—NED'S GRANT APPROVAL PROCESS

The "Review" contends that two NED-approved projects were not adequately assessed by NED's Board to determine whether they could achieve their intended objectives. Evidently, the OIG believes these were unsuccessful projects and indicative of inadequate NED procedures. We disagree, and believe this can be demonstrated by providing the background that led to these grant decisions.

Issue 1. The Press for Romania Libera

The "Review" leaves the impression that the 1990 grant to the independent Romanian newspaper Romania Libera for the press was rushed through because of an artificial "sense of urgency" generated by Romania Libra's agent in the U.S. and by a letter from six U.S. Senators urging NED support for the newspaper. In fact, the sense of urgency was shared by all parties involved in making the grant—not only NED and Freedom House (the U.S. grantee), but also the U.S. Embassy in Bucharest, USIA, the State Department, and AID. (The "Review" also fails to point out that this grant was awarded with funds originating in AID, not through NED's annual appropriation, and so involved all of these parties in the decision.) In the first months of 1990, with Romania in the midst of a revolutionary crisis, all were keenly aware that assistance to independent media was urgently needed if the rapidly approaching May elections were to be free and fair. The sense of urgency was felt even more strongly after the June events when the Jiu Valley miners rampaged through Bucharest, ransacking among other places the offices of Romania Libera. (None of this can be gleaned from the "Review," which gives the impression that the situation in Romania was normal and predictable.

Assistance to the print media in Romania meant helping Romania Libera, the most important democratic paper, whose editor Petre Mihai Bacanu was the outstanding independent journalist in the country and a leading critic of the government dominated by ex-communists. Since the government controlled all the presses, the first priority was to give Romania Libera an independent printing capability. No one underestimated the difficulty involved: this was the first independent print media project in Romania to be built from the ground up. Moreover, while it was understood at the time that a state-of-the-art offset press would cost $1.5 million, it was decided in March, 1990 by the State Department's coordinator for East European assistance that only $350,000 of the initial $10 million of urgently appropriated Panama Act funds could be spared for the purchase of the press.[2] The most that could be done within available resources, therefore, was to help Romania Libera take the first steps toward developing an independent publishing capability. The alternative was to do nothing at all.

It was on this basis that Bacanu and other staff on the paper travelled to Germany, Belgium and Holland in the spring, finally locating a press for $350,000 in Nijmegen, Holland. The press was small enough to fit into

[2] According to Bacanu's agent in the U.S., a technical staffer at the American Newspaper and Publishers Association subsequently estimated that the cost of new printing equipment to publish daily more than 1.5 million copies of Romania Libera would be $6–9 million.

a building that Bacanu had leased from the government, and its design would allow a peripheral printing group to be attached to it to increase output. It was understood that the peripherals would be purchased at a later date with funds raised elsewhere.

Bacanu was in Holland in June when the miners attacked Romania Libera's editorial offices, beat some of the staff, and threatened Bacanu personally. He immediately left for the United States to galvanize support for the beleaguered newspaper. One result of his efforts was the letter from the six Senators urging the Department of State and the NED "to do all they can to help Romania Libera acquire its own printing facilities, and through all possible means."

The grant was thus made in a situation of great turmoil and urgency, complicated by the Romanian Government's refusal to honor earlier pledges to cooperate with U.S. initiatives to support democracy. However, no one in the State Department or the Embassy or, for that matter in the NED, argued that the Romania Libera project or any others should be canceled or indefinitely postponed.

To be sure, the paper faced an uphill battle. The government promulgated a decree that not only disallowed the lease earlier granted to Romania Libera, but effectively shut the paper out of the real estate market in Bucharest. This also delayed delivery of the press because there was no place for storage or set-up. But Bacanu persevered and was successful in obtaining a lease to build a plant to house the press in an industrial area beyond the outskirts of Bucharest.

The International Media Fund (IMF) became involved in the project after construction of the facility had already begun. The entire Nijmegan press had arrived in Bucharest (with the help of a $120,000 grant/loan from the Soros Foundation) and was housed in a metal garage near the construction site. The unpackaging and cleaning of the press has been started. Given government interference and the legal, economic and political environment, this project could not be described as a "mess" (the term of an unnamed IMF official quoted in the "Review"). Great progress had been made against difficult odds, and the IMF was simply entering the picture mid-stream.

The report of the consultant the IMF sent to assess the remaining needs does not suggest a failed or ill-advised initiative. He wrote:

"They have obtained, in one way or another, four presses—two from Switzerland and two from Holland. From these I think we can put together two pretty good presses * * *.

"In a few years, when the first two presses are running well, and Romania Libera is doing well, and newsprint and funding are available, I know that Mr. Bacanu will want to make a third press out of what's left. This third press will be used to help the other independent newspapers. . . .

"Incidentally, the garage is complete—a nice job—and it will be used as the shop for refurbishing and staging the presses, platemaking and auxiliary equipment just prior to installation."

After recommending additional assistance totaling $878,000, the consultant noted: "That doesn't seem like very much to help save a newspaper save a country."

In May 1993, the printing facility became operational with a print run of 200,000 copies. It is the first independent printing facility in Romania.

The "Review" is critical of NED for not conducting a "technical survey" to determine "the feasibility and cost effectiveness of the project." With the benefit of hindsight, it might be agreed that we and the others involved in planning the project did not foresee all the obstacles that the authoritarian government of Romania would create to obstruct the project. But it is simply not the case, as our summary of the events surrounding adoption and implementation of the project makes clear, that the project's feasibility was not thoroughly explored. Indeed, given the level of resources available (determined by the Administration, since these were AID funds), this was the appropriate vehicle to carry out the objective of establishing an independent printing facility in Romania.

The OIG's criticism of the Endowment's providing partial support for Romania Libera, without knowing for certain of the availability of supplementary funding, appears to be inconsistent with its earlier recommendation that the Endowment maximize solicitation of private funding. By enabling the Romania Libera project to get started (being fully aware from the outset that much additional funding and technical expertise was going to be needed), the Endowment created an incentive for the paper to seek other support, and for potential donors to respond positively. Indeed, the Romania Libera press project is an excellent example of the successful leveraging of limited NED resources.

Issue 2. The radio broadcasting stations in Romania

The other grant singled out for criticism in the "Review" is another project to provide equipment to independent media in Romania—in this case $42,500 out of a $173,200 grant to Northeastern University to enable student organizations to establish radio stations. As noted in the "Review," this was less than a quarter of a larger grant which also enabled the Group for Social Dialogue (GSD) to establish an independent television studio, which was established in time for the GSD to film the regime-instigated attack by the miners in June 1990. The tapes were shown around the country and have been credited with discouraging the subsequent use of such violence against the democratic movement.

The Northeastern grant was one of many the Endowment made in Romania with AID funds during the critical pre-election period. The radio portion of the grant actually represented just three-tenths of one percent of the FY 1990 SEED funds which the Endowment managed throughout Eastern Europe, in coordination with U.S. embassies, AID, the State Department, USIA and the various U.S. grantees. These grants, in turn, were but a relatively modest part of the overall Endowment program during the three years covered by the OIG audit. Presumably the OIG believes the Northeastern grant has a general significance which warrants highlighting it in the "Review." Yet like the Romania Libera grant, it was atypical, involved AID funds and, therefore, the relevant agencies of the U.S. Government, and came at a time when the Endowment was asked to serve as the vehicle for the delivery of urgent assistance in a revolutionary period. And again like the Romania Libera project, it was an appropriate grant made in a particular political context which the "Review" doesn't discuss; it involved no misuse of funds, only a delay caused by the difficult circumstances; and it is now well on its way to completion (in this case with assistance from a private donor).

The political and cultural affairs officers at the U.S. Embassy in Bucharest played a particularly important role in the development of the radio project. They were struck by the success of a French-funded student radio station in Bucharest and believed that radio represented the only inexpensive alternative to television, which was controlled by the state and was very costly. The Embassy officers communicated to Washington their insistence that student radios in the provinces be funded and were instrumental in establishing the contacts between Northeastern's representatives (whom they regarded as excellent organizers) and the student activists.

Cluj, Iasi and Brasov were selected as sites because they are big university towns and provincial centers. Universities were targeted because they were seen as permanent Romanian institutions in a revolutionary period, and because of the political importance of the student movement.

Since the funds granted to Northeastern were insufficient to complete the stations (as with Romania Libera, the level of funding was determined not by the Endowment alone but in consultation with State and AID), only studio equipment was bought and carried in. The Northeastern representatives promised the student groups that they would return in the near future with the antennae and transmitters to complete the project.

Upon their return to the U.S., Northeastern officials consulted with USIA about getting donated transmitters from the Armed Forces Radio and Television Service, but this couldn't be worked out. They were subsequently directed to the International Media Fund (IMF). But the IMF was involved with independent television (SOTI) in Romania at the time and was reluctant to take on the radio project. After many months of trying, Northeastern was not able to reach an agreement with the IMF and the matter was dropped.

The Endowment is hopeful that the project can be completed in the near future. We have learned that the Open Society Fund/Soros Foundation is interested in funding the completion of the stations in Cluj and Iasi with the help of Internews, an independent media assistance organization based in New York and an Endowment grantee. Soros/Internews is identifying what infrastructure and technical assistance is needed and will work closely with the Endowment in exploring what else will have to be done. Once again, modest NED assistance has been leveraged to bring in other resources.

Action Taken: The "Review" recommends that proposals be assessed by NED's Board of Directors to determine whether they can achieve their intended objectives. This is, of course, sound advice though hardly at odds with current practice. Since the 1991 GAO report, the Endowment requires all grant proposals, prior to approval, to develop objective measures for determining their ultimate success. This guarantees that the appropriate questions will be asked about a given project's feasibility. But does it ensure that all approved projects will not encounter unforeseen obstacles? Of course not. NED frequently funds projects in uncertain, even dangerous environments, and by the very nature of its work, it is impossible to anticipate all the problems a grantee may encounter. We repeat this essential point, since it addresses directly the issue of feasibility, which the OIG continues to emphasize.

Issue 3. Coordination Between NED and AID

The "Review" contends that certain projects would be more thoroughly assessed to determine whether they would duplicate projects funded by AID.

With the development of AID's Democracy Initiative, and with USIA itself increasing its programs in the field of democracy promotion, there is a clear need not only for coordination among NED, AID and USIA but, more importantly, for a clear definition of roles. As we have already indicated, NED is a nongovernmental institution and has a different function from official U.S. Government agencies. This distinction lies at the heart of the Strategy Document approved by the NED Board in January 1992. These differing roles were also accepted by the House Foreign Affairs Committee in the Conference Report to accompany H.R. 2508, the International Cooperation Act of 1991.

In its report, the Committee noted that AID's strength lies in strengthening "the capacity and accountability of governmental institutions"; that USIA's strength lies in the fields of "information, education and culture"; and that "support for the non-governmental institutions of civil society . . . is best left to the National Endowment for Democracy." The Committee further noted that "it would be a great mistake for AID to become involved in directly assisting political parties or groups in a civil society that have explicitly or potentially political missions and that risk coming into conflict with their governments."

The legislation required the President to submit a report on the role and responsibilities of each of these agencies in the promotion of democracy and asked that the report include specific recommendations for improving coordination and delineation of responsibilities among them. Since the legislation was not enacted into law, the Chairman and Ranking Minority Member of the Committee, along with the Chairmen of the Subcommittee on International Operations and the Subcommittee on Asian and Pacific Affairs, in a letter dated April 23, 1992, requested that the GAO undertake to study and report to the Committee on these issues. The request also asked the GAO to compile an inventory, on a geographic basis, of all U.S. Government-funded programs aimed at democratic development.

At the time of the NED President's March 21, 1991, testimony which is noted in the "Review," a discussion was underway among NED, AID and USIA, and a State-prepared draft paper embraced the same functional distinctions that the Foreign Affairs Committee was later to make. The "Review" is misleading in that it quotes the NED President's testimony in the context of noting that NED and AID fund the same labor organizations. In fact, these organizations—the American Institute for Free Labor Development (AIFLD), the African American Labor Center (AALC), and the Asian American Free Labor Institute (AAFLI)—have received AID funding for decades and NED funding since 1984. The NED President's testimony was related to the new issues raised by AID's decision to develop the Democracy Initiative and to sharply increase funding in the area of democratic development.

Moreover, as the labor memo contained in the attached memo makes clear, AIFLD uses NED and AID funds for different purposes—the former for programs related to electoral processes, e.g., voter registration drives and citizen awareness educational campaigns, and the latter for ongoing union-building and education programs. This differentiation is responsive to NED's policy of ensuring that its limited funds are not being used to duplicate in any way programs that do or can receive AID funding.

It should also be noted that NED does coordinate with AID's Office of Democratic Initiatives for Latin America, sharing material and periodically discussing our programs with them. More effective coordination is actually done with individual field missions which have more up-to-date information on activities than can be obtained from the ODI in Washington, which has direct responsibility for regional rather than bi-lateral programs.

At the conclusion of Chapter 5, the OIG encourages NED "to reexamine its procedures for review and approval of grants." The NED Board and staff constantly review the grant approval process to ensure that the Board has all relevant information needed to assess grant proposals. But we emphasize that the assessment process was adhered to in the case of the two grants singled out by the OIG in the "Review." In response to the final remark that "[OIG] will continue to monitor the project approval process in future audits," we can only reiterate our view that such programmatic oversight is inconsistent with the 1985 GAO opinion we cited in commenting on Chapter 4, which makes clear that USIA's oversight role is entirely financial in nature.

AMERICAN INSTITUTE FOR
FREE LABOR DEVELOPMENT,
Washington, DC July 29, 1992.

To: Paul Somogyi.

From: Jesse A. Friedman.

Subject: USIA's Inspector General's "Umbrella" Report.

I have just had a meeting with Kevin Shaver who shared with me the draft USIA's Inspector General's "umbrella" report, in which we specifically focused on the criticism regarding the lack of coordination between AID and NED on several Latin American labor programs.

It is true that in the formative years of NED, there was some confusion regarding which sources could be utilized for various programs. However, AIFLD began to develop a policy with which we have tried to distinguish the use of AID and NED funds. In general terms, we have utilized NED funds for programs surrounding electoral processes, presidential or congressional. These funds have been used for voter registration drives, and citizen awareness educational programs. We have used AID funds to institutionalize the ongoing process of democratization and institution building with, of course, special emphasis on the union's role in this process.

Brazil, Chile, Paraguay, and the Dominican Republic are mentioned by name in the "umbrella" draft report. Following are comments on the programs in each of these countries:

1. BRAZIL

The General Confederation of Workers (CGT) in Brazil, was formed in March of 1986 with a democratic majority and a vociferous communist minority. It was deemed important by the Brazilian leaders of the CGT to win certain key elections in order to consolidate the democratic majority. Thus, we agreed with them to embark upon a program utilizing NED funds to assist them in this effort. We agreed that in order for us to participate with NED funds in any trade union election, four rigid tests had to be met. These tests were:

(a) The election had to be winnable. We were not about to spend money on lost causes;

(b) the election had to be essential. We were more interested in key industrial sectors rather than in small factories;

(c) the election had to be local in nature; that is, it could not cross state lines, and;

(d) we had to have sufficient reason to believe that the extremist elements competing for union office were receiving outside funding. During the formative stages of the CGT, the WFTU and various left wing European unions were spending vast sums of money in the trade union sectors in that country.

This NED funded program was successful, and the democratic elements of the CGT eventually drove the communists and other extremists out of its ranks. Today, there is no need for this kind of electoral program, and NED funding is used for CGT infrastructure costs as the union consolidates and fights to play a major role in Brazil's fragile and evolving democratic structure.

Throughout the period mentioned above, AIFLD used its AID resources to support the traditional program of the Instituto cultural do Trabalho (ICT), which is a labor education program based in Sao Paulo, which also offers regional programs throughout Brazil.

2. CHILE

AIFLD's NED-funded Chilean programs played a vital role in keeping the beleaguered and sometimes battered free trade unions together during the worst period of the Pinochet dictatorship. Most of the NED funds were spent in supporting those groups who vigorously fought for the return of democracy to that country. Specifically, the NED funds were spent to register Chilean workers for the Plebiscite, which was successful, and on the subsequent "get out the vote" Election, from which Patricio Aylwin emerged as President.

During this period, AID funds covered the basic administrative and infrastructure costs of the AIFLD office, and its educational program with the Comando Nacional de Trabajadores (CNT), and the Democratic Conference of Workers (CDT). The two aforementioned groups have since merged, and are part of the Unified Confederation of Workers (CUT).

3. PARAGUAY

In all of the Western Hemisphere, with the possible exception of Cuba and Haiti, there have been no more disenfranchised workers than the Paraguayans, who suffered under a 30-year arduous and corrupt dictatorship. NED funds were used to support a group of courageous young leaders, who during the dictatorship, called themselves the Inter-Union Movement of Workers (MIT). The MIT leaders were frequent inhabitants of the Asuncion jails, and the publicity generated by the NED funded program probably saved them from a much harsher fate. After the fall of the Stroessner dictatorship, they reorganized themselves into a Confederation of Labor (CUT). The leader of this Confederation ran successfully for the Constituent Assembly of Paraguay, whose task was to draft a new democratic constitution for that Country. Because of its peculiar history, a significant effort had to be made on civic education programs on the role of workers and their unions in a democratic society and NED funds were used for this purpose. They were not used to publicize the candidacy of any individual. As the CUT is fighting for its very existence in today's changing but still military-dominated climate, NED funds are being utilized to support the infrastructure of CUT. However, this program is a very modest one. AID funds have been utilized for our ongoing educational program and office expenses. There is no resident AIFLD Director in Paraguay; the country is covered by our Director in Sao Paulo, Brazil.

4. DOMINICAN REPUBLIC

NED funds in the Dominican Republic have been used exclusively to enable the CNTD to

publish its own newspaper, to support and promote the tripartite National Dialogue process for the peaceful resolution of national conflicts and to encourage trade union representation in the Free Zone. This NED funded program played a role in the recent approval of labor reforms which included protection for workers in the free zones who wish to join unions. The approval procedure was marked by a final series of meetings between the employers and the workers which was sponsored by a representative of the Catholic Church. This was practically the same procedure developed by the National Dialogue process.

Under the aegis of the new laws and with the support of the NED, the CNTD has become the leader in organizing new free zones unions.

Traditional AID resources are used to help maintain the CNTD, to promote normal organizing activities and to maintain a significant trade union education program.

Paul, I hope the above clarifies some of the criticisms made in the draft "umbrella" report.

If we can be of further assistance, please let us know.

Mr. HOLLINGS. I would hate to have the IG come and report on our offices. We did have a GAO report. They used to go through all the Senators' offices. It took them several months to go through mine. I got off clean. But IG's are going to find certain things. Seriously, we have been cutting back on all the particular boondoggles that they complain of.

Everyone, particularly the author of the motion to table our amendment, is talking about the growth; how do you double and all the percentages and so forth. Those charts are bigger than the budget for National Endowment for Democracy—this democracy corps that I call it.

The truth is that at $18 million when it started it was a boondoggle and they had no place to go except Nassau and the Virgin Islands. Now since the cold war has ended, I count up 25 to 30 new countries or republics to work in who wanted to have them there in their particular republics.

Russia, Ukraine, Kazahkstan—you can go right on down the list of the 14 republics in the former U.S.S.R. They could not even get in to some of them—Romania, Bulgaria, the Czech Republic, the Slovak Republic, Hungary—you can go right on down, and include Serbia. You can just add on Latvia, Lithuania, Estonia—National Endowment for Democracy has worked there.

So we have not a continuation of a sort of entitlement program with a few other citizens to add on, like Medicare or Medicaid. This is not an entitlement program. This is an opportunity program where all of a sudden we have the opportunity and as U.S. Senators we act like we do not know how to handle it. The fact of the matter is this is not an increase in spending. It is a decrease in future spending.

I notice the Senator from North Dakota, who has been a leader on the Special Committee on Hunger and the International Commission on Hunger. I worked in that particular field. What happens is you have 13 billion brain cells, I have 13 billion, 10 billion of the 13 are developed the first 5 months in the mother's womb. There is as much as 20 percent less cellular development when there is a lack of nutrition. The impact of hunger on an infant's development is like taking a TV set, dropping it on the floor and hooking it up again. Hundreds of wires do not join. Likewise, the billions of brain cells in that infant's mind never materialize. It is stultified and arrested at birth. It never develops. This is what we call generalized brain damage.

As a result, then, we went in with an initiative. The distinguished former Vice President, the Senator from Minnesota, Senator Humphrey and myself, sponsored women, infants, and children feeding. And we find that for low birthweight infants, if we provide nutritional supplements for an average for 30 days for 200,000 infants, we can save; so for every dollar in WIC we save money, for every dollar in Head Start we save more, for every dollar spent at NIH, even more.

Looking at the budget for peacekeeping, it is like drinking water out of a fire hydrant. I can tell you, it has gone up from less than $100 million to over a billion and it is going to cost billions more.

What are we doing in the front line of this turmoil that we have in the former Yugoslavia? The National Endowment for Democracy, a little fledgling leadership entity, is supporting the democratic movement there. Formerly, I would call NED a dilettante, palavering, and partying group that has now sobered up and become one of the most useful citizens—it is doing the finest work in the democratic cause that I know of, the world around, in all of these opportunity countries.

Yes, it has gone up from $18 million to $35. I wish it could go up from $18 million to $180 million. I can tell you that right now. We do not have that kind of infrastructure. We do not have that many volunteers from the chamber of commerce, from the AFL-CIO—incidentally they have been criticized. I will categorically say in my experience I have learned, in travel over this world, that there has been none better in the cause of freedom than the labor movement here in the United States. The labor movement has helped organizations like Solidarity in Poland and other countries that have come forward with free societies.

So let this little fledgling movement here prosper and grow and continue to be supported, not going along with that motion to table the committee amendment.

Do I have any time?

The PRESIDING OFFICER. The Senator has 2 minutes and 16 seconds remaining.

Mr. HOLLINGS. I yield that time to the distinguished Senator from Arizona.

Mr. DECONCINI. I appreciate the Senator from South Carolina's dedicated work to this whole bill but particularly standing up for the endowment. I have done a little traveling in my position as the Chairman of the Commission on Security and Cooperation. We have been asked as Members of Congress to monitor elections in every former Soviet Union Republic. I have had the pleasure of visiting seven of them. We have sent staff to all of them.

Who is there on the front line? The Endowment. With the greatest respect I have for the Senator from Arkansas, I really believe for the first time I can stand up on this floor and guarantee that this is a good investment in foreign aid. I made a lot of speeches up here in opposition to foreign aid because I think it is wasted. This, in my mind, is not wasted. I have seen it first hand. I have seen where they have sent committees from different organizations in the United States, including the legal counsel here of the U.S. Senate. And they have helped prepare Constitutions, statutory laws dealing with commerce, with trade, with airways, with a number of commercial ventures.

So this is a hands-on program. The endowment was in Angola when I was in Angola, trying to monitor and help that democratic process. And they did. They had the fairest, freest elections they have ever had. Though they did not turn out the way some of us might have wanted it, it was the endowment that had the credibility there in Angola to see those elections come about.

So I hope the Senate tonight will not follow what I perceive to be a motion to table from the Senator from Arkansas of a very, very credible and proper expenditure of our dollars. It is an investment in the future stability of democracies around the world.

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

Mr. PELL. Madam President, I want to express my strong support for funding for the National Endowment for Democracy. Many of the speakers we have heard tonight have spoken eloquently on the merits and accomplishments of the NED. I do not want to belabor an already lengthy debate with extensive repetition.

I only want to say that the NED is a cost effective investment in the promotion of democracy. This is a goal I believe all of us can support. The President has made the NED one of the keystones of his foreign policy in this area. I believe we should support the President in his request for funding for the NED.

I would conclude by urging my colleagues to read the attached editorial from the Wall Street Journal. The editorial clearly articulates the valuable

role the NED can play in the promotion of democratic reform and development. I ask unanimous consent that the editorial appear immediately following my remarks in the RECORD.

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

[From the Wall Street Journal, July 26, 1993]

HOUSE HOBBLES DEMOCRACY

The Cold War is over, but obviously we face an unstable world, clearly portending a struggle of ideas and values. Yet the House of Representatives voted to scuttle the National Endowment for Democracy, a federally funded outfit that hands out pencils, fax machines and used computers to exile groups pushing to bring democracy to their embattled homelands. This week we'll find out if the Senate duplicates this preposterous move.

The House professed budget-cutting, saving the lordly sum of around $48 million, or half the funding that goes to the National Endowment for the Humanities (see above). It's also about equivalent to what the U.S. spent on missiles alone when it launched the June 26 strike at Saddam Hussein's intelligence facilities. And the Agency for International Development gets some $6.5 billion a year. A lot for Third-World pork, but nothing for spreading American values.

In the confusing, regionalized years since communism's retreat, NED's projects have proven particularly useful. The endowment helps Iraqi exiles to fight for secular democracy in their home; its funds helped pay for the distribution of thousands of copies of Charter 91, the exiled Iraqis' draft bill of rights, inside Saddam's Iraq. This year the Free Iraq Foundation, an important center for Saddam's opposition abroad, received $90,000 in NED money.

NED funds have also helped Ukrainians seeking to widen political discussion in a nation currently led by the former local chief of ideology; Lebanese interested in working on conflict resolution; independent Vietnamese publishers who produced tons of documents, cassettes and printed material designed to alert information-deprived Vietnamese to the breakdown of socialism in Eastern Europe; and Chinese fighting for democracy in the airless atmosphere following Tiananmen Square.

Writing from his Arizona refuge in support of NED, dissident Fang Lizhi noted that "it would be wonderful if democracy did indeed grow automatically out of economic development, but history gives us, unfortunately, no such guarantees." The publisher of the Vietnamese magazine Que Me noted that through NED funding the periodical made "real headway in bringing a flow of information and democratic ideas which was totally denied in Vietnam." Vytautas Landsbergis, Lithuania's opposition leader, called the democracy endowment's work "crucial." Elena Bonner wrote that cutting NED was "penny wise, pound foolish."

What escapes the endowment's opponents is the miraculous economy of NED-style programs. Had the West spent a few tens of millions producing some effective propaganda for the airwaves around Belgrade during the 1980s, for example, Slobodan Milosevic likely would never have gained his Orwellian stronghold on the minds of Serbian nationals. Radio Free Europe never made it into Tito's Yugoslavia because U.S. lawmakers deemed the nation "relatively democratic."

This week promises to bring some interesting news on the foreign aid front: Joe Biden has threatened to filibuster to save the life of another effective information vehicle, Radio Free Europe. Since Congress knocked NED off its version of the budget legislation in June, the agency has received numerous letters of support. NED also has some White House friends who could be of help: until his recent ascendancy, David Gergen sat on NED's board.

Mr. PRESSLER. Madam President, I rise in strong support of the National Endowment for Democracy. The time honored phrase "look before you leap" has great meaning here. I urge my colleagues, before they vote on this amendment to "think before you cut." Closing the Endowment is not grand fiscal responsibility. It is a great mistake.

Madam President, it is no secret that I am not a big fan of foreign aid. I share the concerns of many of my colleagues about dumping scarce tax dollars on questionable foreign aid programs. We just cannot afford a generous foreign aid program. We should scale down our fiscal commitment to our current foreign policy resources. We should impose tough administrative controls on wasteful assistance programs. We should eliminate useless programs. And we should control the growth of new programs.

Yes, the cold war is over. Communism is dead. The rubble of the Berlin Wall, statues of Lenin and other communist relics are now paperweights sold on street corners from Washington to Warsaw. But this does not mean the fight for democracy is done. It does not mean we should pitch our tents abroad, and retreat to Fortress United States. Now is not the time for foolish isolationism.

One need only read a newspaper or watch the evening news to know that the death of Soviet communism did not bring with it the birth of Soviet democracy. It merely provided the opportunity for the seeds of democracy to take root. Democratization remains a fragile experiment in Russia, South Africa, and countless other African countries. Most important, democracy is nonexistent in Cuba, North Korea, Vietnam, China, Iraq, and virtually everywhere in the Middle East except for Israel.

I agree we need to reevaluate our foreign policy objectives and the programs designed to achieve them. I agree our enormous budget deficit requires us to streamline our foreign policy arsenal so that we can do more with fewer resources.

Madam President, we can achieve both goals and leave in place vital programs like the National Endowment for Democracy. I remind my colleagues that the State Department appropriations in this bill reflect the substantial cuts made by the Foreign Relations Committee in the State Department authorization bill. The full committee legislation cuts more than $500 million from the State Department and the U.S. Information Agency in fiscal year 1994, an 8-percent reduction from the administration's original request. Over 2 years, these savings will approach $1 billion.

I understand the political desire to make even more cuts in State Department programs, but, as I said before, let us think before we cut. Let us think for a moment what the National Endowment for Democracy is, what its goals are, what it has achieved, and what it could achieve.

Madam President, if put in this context, I would think very few would question why we should fund the Endowment. In fact, last month's vote in the House of Representatives vote to kill NED has prompted numerous leaders from across the philosophical spectrum to conduct a congressional sanity check. Jimmy Carter and Ronald Reagan, the Chamber of Commerce and the AFL–CIO, Democrats and Republicans—all are united in their support of the Endowment and in their shock that we would even consider dismantling it. I understand one Member of Congress called this unparalleled unity of support an "unholy alliance." I call it a grand crusade.

The Endowment is not just a good cause, it makes good fiscal sense. If we are to achieve foreign policy goals with fewer resources, we should gear our resources toward a concept known as preventive diplomacy. This concept is designed to prevent the full-scale intervention of U.S. diplomatic and military forces by influencing internal democratic and free market movements within countries. The argument is that such internal influence is infinitely more cost effective that the cost in resources and even lives if an internal foreign conflict requires commitment of greater U.S. personnel and resources.

Preventive diplomacy makes sense, Madam President. It is infinitely more cost-effective and humane to channel our resources to foster the creation of free governments and free markets. Indeed, I continue to believe that the best foreign assistance we can provide to a struggling country is an American with ideas on how to start a company, or organize an opposition newspaper, or stage a political rally, or even recreate a Lincoln-Douglas style debate. That is exactly what the National Endowment for Democracy is designed to do.

With a presence in more than 100 countries, the Endowment has helped last decade's tyrannical nations and captive countries become this decade's new democracies and free markets. Chile, Poland, the independent republics of the former Soviet Union, and many others are democracies today with the help of the Endowment.

We can be proud of who the Endowment has helped, but let us not forget the freedom fighters who would be hurt if the Endowment was forced to close

its doors. Human rights activists and political dissidents in Cuba, Serbia, North Korea, Iraq, China, and other nations in the Caribbean and Africa are counting on the Endowment to provide technical assistance, guidance, and moral support. They are counting on us much like we counted on the French and the Germans during our own struggles more than two centuries ago.

I recognize that the Endowment has been subjected to criticism in its use of funds. A 1991 General Accounting Office report found fault with the Endowment's grant monitoring, oversight procedures, and financial controls. The Endowment has instituted reforms to correct these problems—reforms that resulted in a positive GAO report in 1992. Others have been critical of program duplication with other foreign aid programs. The Endowment's President Carl Gershman told my staff that he is looking into ways to achieve better coordination of democracy-building programs. I agree.

Frankly, it is interesting to see so much interest in the management of a Government agency with a budget of $30 million. I wish equal attention and insistence on better management be directed at the United Nations—a far larger entity, and one whose mismanagement, waste and abuse is beyond question and reproach.

Madam President, cutting spending is good politics these days, but it is also good policy. When we make cuts, it should be in the name of good politics and good policy. There seems to be a perception that closing down the Endowment fits into this category. Think again. Funding the Endowment is a worthwhile, necessary, fiscally responsible measure. I urge my colleagues to vote in the name of good policy and a grand crusade, and oppose the pending amendment.

The PRESIDING OFFICER. The Senator from Arkansas has 10 minutes remaining.

Mr. BUMPERS. Madam President, I want to apologize to Senators for offering this amendment. I have made a horrible mistake, obviously. I never realized until this afternoon and this evening that democracy in the entire world hinges on $35 million for the National Endowment for Democracy. Now what I should have done is wait and move to strike $14 billion in foreign aid, because all these years I have been voting for that thinking maybe that had something to do with creating friends for us and establishing democracy around the world.

I have even supported, Madam President, the U.S. Information Agency at $383 million for democracy and governance activities, because everybody told me that was what democracy around the world hinged on.

I have voted for the Agency for International Development in the State Department appropriations every year because I was assured that was essential to democracy.

Today I find out I have been outrageously misled all of these years.

It is this $35 million for the National Endowment that has been saving democracy for the entire world. I want to apologize to everybody for taking on what the Senator from Arizona said, this little old piddling $35 million out of a $23 billion bill. It is those little old $35 million piddling appropriations that have brought us a $4 trillion debt.

Do you want to know whose democracy is threatened? The United States. If we do not get that $4 trillion debt under control, I promise you democracy will not be long for this country. I sit on the Appropriations Committee and I hear people say, "Oh, give them a million dollars, just a million dollars." That is how much income tax I pay in 20 years. When I hear it said, "Oh, it is only a million dollars," all I can think about is that is the amount of income tax I am going to pay in 20 years, if I live that long.

Speaker after speaker after speaker today said you cannot raise taxes until you cut spending. I get 1,500 letters a week, and I promise you at least 1,000 of them say, "don't tax me until you cut spending." How many times have I heard that speech? And you come and they say, "A $23 billion bill and you are picking on a little old $35 million appropriation? Why, how dare you."

I tell you, the greatest thing about this bill and this program is who we give the money to. Saving democracy? Why, we give the Democratic Party almost 10 percent of this $35 million. We give the Republican Party almost 11 percent of it, and do you know what they do? They spend it on their national conventions. Now you tell me how that is helping democracy in Costa Rica. You tell me how that is helping democracy in Poland, Romania, and China.

I am here to tell you that if this program is as great as I heard this afternoon, it ought to be $350 million or $3.5 billion, not $35 million. Here is the Chamber of Commerce—yes, that is right, the U.S. Chamber of Commerce. They are going to get 10.6 percent of this $35 million. And the AFL-CIO, they are big takers. They are going to get 40 percent.

I said this afternoon, can you feature the Chamber of Commerce and the trade unions, the AFL-CIO, sitting across from a delegation in Romania explaining the striker replacement bill? Think about that.

Madam President, this is an absolute absurdity. It can only be described as an absurdity; 28 percent of this money is discretionary.

There is one thing the National Endowment for Democracy does so well. They took a page out of the Pentagon's book. Do you know that the Pentagon puts a little money in South Carolina, a little money in Arkansas, a little money in California, so that when the vote comes up, it is all sealed and delivered? All you have to do is put a little money in 26 States, and you have 52 votes and there goes your weapons system. The National Endowment for Democracy is just as smart as the Pentagon.

Do you know what they do? Look at this list of people they put on their board. Madeleine Albright, ORRIN HATCH—I was so shocked when I heard the Senator from Utah defending this thing this afternoon. Why, he is on the board. These people are not stupid. They know how to keep the money flowing. Just put all these folks—Stephen Solarz—all of them, on the board, the same thing the Pentagon does in getting contracts for defense weapons. Oh, it is only $35 million.

Madam President, do you know when this thing was founded, everybody said, "Well, we will ultimately work it out to be a privately funded organization." It is a private corporation. In 1990-1991, we put language in there saying they should solicit more private contributions. They may have solicited them, but they "ain't" getting them. When all those letters about, "Oh, how wonderful this is; our country would not have survived if we had not gotten this $35 million, we would have fallen to the Communists"—this is a relic of the cold war, folks. That reminds me of asking a food stamp recipient if you think we ought to cut food stamps out. You are not going to get many ayes on that one.

I watched the evening news a while ago. Women who had breast cancer, if they are uninsured or if they are on Medicaid, are 50 percent more likely to die, and we put $35 million into this mess and say "adios" to women with breast cancer on Medicaid, uninsured, women are 50 percent more likely to die while this money is being squandered on national conventions, on everything under the shining Sun.

If I thought this thing had one thing to do with establishing democracy around the world—how many times do you hear SDI? "Well, we do not need SDI anymore but we need the same amount of money for theater missile defense."

"The Soviet Union is not around anymore, but we still need $30 billion for intelligence. Oh, the world is much more dangerous now than when the Soviet Union was intact."

You cannot cut spending in this body. I do not care who you are, how hard you try, you cannot cut spending. It is just that simple.

Everybody loves the rhetoric. They go home and tell the local chamber of commerce: "that bunch of people up there, you just can't do anything with them." They are right, but for different reasons than they are representing.

So, Madam President, I can read the handwriting on the wall. I thought all

these fiscal conservatives were going to belly up and kill this $35 million program, pat themselves on the back, pack this in and go home and have a good dinner tonight. You cannot kill $35 million. You cannot kill a $20 billion super collider. You cannot kill a $100 billion space station. There is not one person in this body who can tell you what that space station is even going to look like.

In short, you cannot kill anything. We should make this thing a private organization, let them solicit money, let us make them do what was intended in the first place: Make them a privately funded organization.

Madam President, I will just close by saying it is frustrating. I thought I had a chance of winning this. Senator BROWN, Senator DORGAN, Senator FEINSTEIN and I thought we had a chance to win this, but we are not going to win it. You just cannot cut spending here. It is only something people want to talk about.

I yield back the remainder of my time, and I move to table the committee amendment appearing on page 83, lines 12 through 16, and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. FEINGOLD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I have a unanimous consent request that we want to get prior to the vote. It has been cleared on both sides. If this is cleared, then I think this will be the last vote this evening.

Mr. President, I ask unanimous consent that if the pending amendment is not tabled, the committee amendment on page 71, line 21 through page 72, line 18 be agreed to for purposes of original text, provided that no point of order be waived on this request and that the only amendments remaining in order to the remaining committee amendment on page 83 be the National Endowment for Democracy amendments listed in the consent agreement agreed to earlier today.

The PRESIDING OFFICER. Is there an objection?

Mr. BUMPERS. Mr. President, reserving the right to object, I did not hear the first part of that. Does this have anything to do with this?

Mr. HOLLINGS. No. Well, it does. It says if it is not tabled.

Mr. BUMPERS. That is OK.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. We do not have any objection on our side.

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

Mr. HOLLINGS. Then this would be the last vote this evening, and we have some other work that the managers of the bill can clean up.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. 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 Montana [Mr. BAUCUS] and the Senator from Delaware [Mr. BIDEN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

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

The result was announced—yeas 23, nays 74, as follows:

(Rollcall Vote No. 223 Leg.)

YEAS—23

Bingaman	Daschle	Leahy
Boxer	Dorgan	Murray
Breaux	Exon	Nickles
Brown	Faircloth	Pryor
Bryan	Feingold	Reid
Bumpers	Feinstein	Sasser
Campbell	Grassley	Warner
Conrad	Gregg	

NAYS—74

Akaka	Harkin	Mikulski
Bennett	Hatch	Mitchell
Bond	Hatfield	Moseley-Braun
Boren	Heflin	Moynihan
Bradley	Hollings	Murkowski
Burns	Hutchison	Nunn
Byrd	Inouye	Packwood
Chafee	Jeffords	Pell
Coats	Johnston	Pressler
Cochran	Kassebaum	Riegle
Cohen	Kempthorne	Robb
Coverdell	Kennedy	Rockefeller
Craig	Kerrey	Roth
D'Amato	Kerry	Sarbanes
Danforth	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dodd	Levin	Simpson
Dole	Lieberman	Smith
Domenici	Lott	Specter
Durenberger	Lugar	Stevens
Ford	Mack	Thurmond
Glenn	Mathews	Wallop
Gorton	McCain	Wellstone
Graham	McConnell	Wofford
Gramm	Metzenbaum	

NOT VOTING—3

Baucus	Biden	Helms

So the motion to table the amendment was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the committee amendment on page 71, line 21, through page 72, line 18 is agreed to.

NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY

Mr. MCCONNELL. As a new member of the Subcommittee on Commerce, Justice, State and the Judiciary let me first express my respect and appreciation for the remarkable job the chairman and ranking member did in preparing this bill. You operated within unprecedented budgetary constraints with an allocation that was over $1 billion in outlays below the President's budget request and $544 million in outlays below the level CBO estimated was necessary to continue existing programs. You have earned every Member's respect for a difficult job that has been well done.

Given these budget pressures, I understand that you avoided providing line item funding for projects which might deserve funding. However, I would appreciate the chairman and ranking member taking a moment to consider one project that I think deserves special recognition.

Mr. HOLLINGS. I would be happy to hear the Senator's views.

Mr. MCCONNELL. In the western part of my State, Hopkinsville, like many areas is struggling with the problem of unemployment. Community leaders have made a concerted effort to attract and develop business opportunities, but in doing so they have discovered that many companies were looking for new skills which do not match what is available in our community. Hopkinsville Community College decided to join forces with local vocational technical training programs to develop a center which would guarantee companies located or moving to the area the best industrial, mechanical and engineering skills available which would in turn improve their competitive position. The community has invested over $250,000 in the initial planning, design, and construction of this facility and now is seeking Federal support to continue the project.

There are a number of Department of Commerce programs which are in a position to offer grants to support this important enterprise including the National Institute for Standards and Technology industrial technology services appropriation account.

Mr. HOLLINGS. As the Senator knows, the committee did recommend $232,524,000 for the NIST industrial technology services appropriation account. The House, on the other hand, has proposed no funding for this program. It remains to be seen where we will come out in conference on this item.

Mr. MCCONNELL. With that caution in mind, I think the efforts underway in Hopkinsville are a natural match for the grants made available under NIST's programs. As the committee has noted these Commerce Department programs are designed to help American industry improve its performance in manufacturing and developing advanced technologies which is precisely what Hopkinsville is trying to do in partnership with business.

I hope that as the Commerce Department considers grant requests, it will carefully review the proposal Hopkinsville has developed. It is just the kind of program that expands employment opportunities as it advances America's industrial interests and abilities.

Mr. DOMENICI. The Senate's position on the NIST external grant programs was driven by the priority many

of us attach to assuring technical assistance and funding is available to improve manufacturing and production capabilities. I agree that the Commerce Department should take a serious look at the kind of proposal my colleague from Kentucky is suggesting.

Mr. HOLLINGS. I think we can all agree that the Commerce Department should take a serious look at this proposal and offer support if it meets the program's competitive criteria.

Mr. McCONNELL. I appreciate your consideration in discussing this proposal and look forward to working with in the future on the subcommittee. Let me commend you both again for the exceptional job you have done with limited resources.

THE RADIATION EXPOSURE COMPENSATION TRUST FUND

Mr. HATCH. I am concerned that there is no new funding proposed in this appropriations bill for the radiation exposure compensation trust fund for fiscal year 1994. Congress enacted the Radiation Exposure Compensation Act ["RECA"] trust fund to compensate victims of radiation caused by our nuclear weapons testing program.

I have learned that the Clinton administration proposed not to appropriate new funds for the RECA fund for fiscal year 1994, and the Members of Congress' appropriations committees have acquiesced in that decision.

I have been concerned that, since Congress finally acknowledged the Government's fault so many years after causing such harm and suffering to citizens of Utah and other Western States, there be sufficient funds to pay for the compensation promised in the law. Am I correct in my understanding that there are sufficient funds in the RECA fund to fully pay all claims now pending as well as all claims projected to be filed in 1994 so that no RECA claimant will be harmed by this funding proposal?

Mr. DOMENICI. Yes. Our information from the Justice Department is that approximately $110 million will be available for use in 1994. We have been assured that this is more than sufficient to cover all outstanding claims.

Mr. HOLLINGS. We have been assured that this amount, $110 million, is sufficient to cover all pending and future claims through fiscal year 1994.

Mr. HATCH. If it should happen that part way through the fiscal year the RECA trust fund should fall short of funds to make these compassionate payments, would the Senator from South Carolina and the Senator from New Mexico, commit to working with me to ensure that the victims of radiation caused by our Government are paid the sums owed to them under present law?

Mr. DOMENICI. Absolutely. As one of the chief sponsors of the program, I am committed to its success.

Mr. HOLLINGS. The Senator can count on my assistance.

Mr. HATCH. Will my colleagues further commit to working with me to endure that sufficient funds are appropriated in subsequent years in which the trust fund exists to meet the obligations of the Government to the radiation victims are required under the law?

Mr. HOLLINGS. Yes.

Mr. DOMENICI. Again, I will do everything in my power to ensure that all claims are paid according to the law.

Mr. HATCH. And, do my colleagues agree that simply because no new funds have been appropriated for fiscal year 1994 no presumption will be raised about the level of funding necessary in future years?

Mr. HOLLINGS. The Senator is quite right. No presumptions will be raised against future appropriations.

Mr. DOMENICI. I agree with my colleagues. We will work together to ensure that the necessary funding is available over the life of the trust fund.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 708

(Purpose: To require a certification that the United Nations has established a mechanism, process, or office for budgetary and management control, and for other purposes.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 708.

Mr. PRESSLER. 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 72, line 12, strike the colon and insert in lieu thereof the following: "or that the United Nations has established a mechanism, process, or office—

"(1) to conduct and supervise audits and investigations of United Nations operations;

"(2) to provide leadership and coordination, and to recommend policies, for activities designed—

"(A) to promote economy, efficiency, and effectiveness in the administration of, and

"(B) to prevent and detect fraud and abuse in, such operations, and

"(3) to provide a means for keeping the Secretary-General fully and currently informed about problems and deficiencies relating to the administration of such operations and the necessity for and progress of corrective action: *Provided further*, That the Secretary of State, acting through the United States Permanent Representative to the United Nations, may propose that the Secretary-General of the United Nations establish an advisory committee to assist in the creation within the United Nations of such mechanism, process, or office: *Provided further*, That an advisory committee established consistent with the preceding proviso should be comprised of the permanent representatives to the United Nations from 15 countries having a commitment or interest in budgetary and management reform of the United Nations, including a wide range of contributing countries and developing countries representing the various regional groupings of countries in the United Nations: *Provided further*, That such advisory committee should evaluate and make recommendations regarding the efforts of the United Nations and its specialized agencies—

"(i) to establish a system of cost-based accounting;

"(ii) to continue the practice of conducting internal audits;

"(iii) to remedy any irregularities found by such audits; and

"(iv) to make arrangements for regular, independent audits of United Nations operations: *Provided further*, That it is the sense of the Congress that even tougher measures to achieve reform should be put in place in the event that the withholding of arrearages does not achieve necessary reform in the United Nations:"

Mr. PRESSLER. Mr. President, I am here today to fight, yet again, for tough management reform measures against the United Nations. Time and time again, I have raised the issue of U.N. budgetary waste, fraud, and abuse. Repeatedly, though, my pleas for strong corrective mechanisms have fallen on deaf ears.

In the bill before us today, my Republican colleague from New Mexico has included language to address fraudulent U.N. practices. I applaud his efforts. During the recent subcommittee and full committee markups of the Foreign Relations Authorization Act, I offered similar language, but was unable to get the support necessary to include a provision for the withholding of U.N. funds. My colleague's successful effort to include U.N. reform language is, indeed, commendable.

However, this is just a first step. Stronger, more exacting actions need to be taken. For that reason, I am offering additional language to the United Nations reform provision already included in the State, Justice, and Commerce appropriations bill.

Mr. President, as my colleagues know, I served as a congressional delegate to the United Nations last fall. While in New York, I learned of many examples of wasteful budgetary practices, and saw the reality of the bureaucratic malfeasance occurring at the United Nations. Since that time, I have been acutely aware of the efforts or lack of efforts our State Department has taken to end fiscal fraud.

For years, I have been told that efforts are underway to establish some type of oversight mechanism at the United Nations to ensure that crooks are deterred and that fiscal mismanagement is punished. But instances of budgetary waste, fraud, and abuse continue to occur at the United Nations. Most recently, I have been informed that 38 people without official United Nations posts are still on the

payroll at the United Nations. And as of last week, I learned of new examples of procurement fraud and bid rigging in connection with the U.N. Cambodia operation. When will it stop? Hopefully we can take a step to lead us closer to ending such abuses at the United Nations by adopting the amendment I am offering today.

As you know, Mr. President, the Commerce, Justice, State appropriations bill would withhold arrearage payments to the United Nations unless the Secretary of State certifies that an inspector general has been established in the United Nations. My amendment furthers this effort by:

Recommending the establishment of an advisory committee within the United Nations, including up to 15 countries interested in and committed to U.N. management reform to assist in the creation of an inspector general;

Providing the United Nations the administrative flexibility to establish either an inspector general as defined in Federal law or a mechanism, process, or office that would function similar to an inspector general; and

Calling for the establishment of even tougher measures should U.N. reform efforts fail.

The intent of my amendment is simple. It gives the United Nations the flexibility needed to determine what process will best facilitate reform efforts by establishing an advisory committee. Additionally, my amendment language includes sense of the Congress language, stating that tougher measures should be put in place if the withholding of arrearage payments fail to achieve credible U.N. reform.

Frankly, Mr. President, I still am not convinced that we are taking strong enough measures to adequately address the problems associated with an international organization wrought with bureaucratic inefficiency. Nevertheless, the bill before us attempts to move forward the U.N. reform process and to provide a mechanism to achieve such a process.

The U.S. purse is a powerful instrument to use to attain fiscal management goals. This no management, no money mentality is need to sent the signal to the United Nations that we in Congress are tired of lipservice from the State Department and are prepared to offer stronger measures if the withholding of arrearage payments does not foster change.

Establishing an advisory committee to pursue the creation of a U.N. inspector general or a U.N. office with similar functions is a step we must take if we ever want to witness meaningful change at the United Nations. Mr. President, I urge my colleagues to support my amendment.

I could give a much more lengthy description; but we need to have reform in the United Nations. This Congress needs to send every signal. Our State Department has been too soft in demanding reform in the United Nations.

I support the United Nations strongly, but its personnel system is so inefficient that it cannot deliver aid; it cannot deliver troops; it cannot carry out the function of the United Nations unless there is reform. There needs to be a professional service system within it and an inspector general to punish wrongdoing, where audits find wrongdoing, so the American taxpayer can be assured that our moneys are not being stolen or wasted.

I urge adoption of the amendment.

Mr. SARBANES. If the Senator will yield. As the Senator will recall, this was an issue that was discussed in the Foreign Relations Committee when the State Department authorization bill was being marked up. In fact, the Senator from Massachusetts, Senator KERRY—who is the chairman on that subcommittee on which you are the ranking member—and you had worked out language on this issue which was included in the markup bill, and later you offered further language.

I guess my question is whether this amendment the Senator is offering is the same amendment that was offered in the markup and not accepted by the committee, or is it different?

Mr. PRESSLER. No, it is not the same amendment I offered in committee. I thank my colleague for his attentiveness to this. That amendment would have withheld 50 percent of our voluntary U.N. payments unless the President could certify that there was an inspector general, as Dick Thornburgh recommended in his departing report, and that there was a process going forward ensuring that the U.N. audits were being carried out. That amendment failed in committee.

Senator DOMENICI very wisely and ably added some language in this bill already—and I commend the Senator from New Mexico—which would also urge that an inspector general be adopted. This carries the reform issue a step further, but the language is not as strong as I would like, frankly. I am afraid that the professionals at the United Nations are going to ignore us again.

But this amendment has been agreed to on both sides, and it would send a clear signal and require the 15 countries interested and committed to U.N. management reform to assist in the creation of an inspector general.

In all of our Federal Government departments, we have an inspector general. Indeed, the U.S. attorneys can find fault with any public official in this country. That is not true of U.N. officials. Even if a U.N. audit finds that there is stealing, there is no action frequently taken against that person.

Mr. SARBANES. This is an amendment, I take it, that sort of moves down the path of establishing an advisory committee to examine this issue; is that right?

Mr. PRESSLER. That is correct. I hope it will be a major step in getting an inspector general who can punish wrongdoing in the United Nations.

Frequently, when supplies are sent to a country, they disappear overnight. We are told they are stolen, but they turn up on the black market. When the U.N. auditors find people who have done wrong, nothing is done about it within the U.N. system.

I might say that I commend the Republican Senator from New Mexico's language that withholds arrearage payments if an inspector general is not created. I hope that language stays in this bill. I hope things are not taken out in conference. I have agreed not to have a rollcall vote, which I think we can win overwhelmingly, with the hope this is not taken out in conference.

Mr. SARBANES. If the Senator will yield, I am happy to have the Senator's explanation. I have looked at it. My real question was whether it was a repeat of the amendment about which we had some rather extended debate and, frankly, against which I thought there were reasonable arguments; although there were reasonable arguments for it. I am satisfied this is not that amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, we had checked this with the Foreign Relations Committee. I think now, with the concerns of the distinguished Senator from Maryland, it is cleared on this side.

Mr. DOMENICI. It is cleared on this side.

Mr. PRESSLER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment will be considered in order and agreed to.

So, the amendment (No. 708) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 713

(Purpose: To appropriate funds for trade adjustment assistance)

Mr. HOLLINGS. Mr. President, on behalf of Mr. RIEGLE, Mr. ROCKEFELLER, Mr. LEVIN, Mr. MOYNIHAN, Mr. DANFORTH, these distinguished Senators, I send an amendment to the desk on trade adjustment assistance and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. LEVIN, Mr. MOYNIHAN, and Mr. DANFORTH, proposes an amendment numbered 713.

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

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

The amendment is as follows:

On page 49, line 10, strike "$228,922,000" and insert "$242,642,000, of which $13,720,000 shall be for Trade Adjustment Assistance".

On page 60, line 7, strike "$300,000,000" and insert "$298,000,000".

Mr. HOLLINGS. Mr. President, this amendment also has been cleared on both sides.

Mr. ROCKEFELLER. Mr. President, this amendment restores funding for the Trade Adjustment Assistance Program for firms, which is part of the Economic Development Administration.

The TAA firm program helps small- and medium-sized companies which have lost jobs and revenues because of imports. Through technical assistance and consulting services, it works with these companies to develop strategies for success. And in the process it has compiled a superb record.

The program has saved or created over 41,000 jobs and $3.4 billion in sales in 379 firms since 1988, and 267,000 jobs in the last 15 years. TAA has consistently had a small budget—only $13.6 million this year—making it one of the most cost-effective programs we have. In fact, the overall return on investment in terms of revenue generated is 1,274 percent for every Federal dollar invested. This covers the operation of the Washington DC-based program office and 12 regional centers across the country.

In the Mid-Atlantic region, which includes West Virginia, this program saved 6,320 jobs with an investment of just $4.5 million over the last 4 years. In addition, I have heard the stories of many small businesses from most of the 50 States that attribute the revival of their businesses to TAA. This is an unheralded program in the Federal Government, Mr. President, but there is a lengthy anecdotal record of its success in saving thousands of American companies over the years.

One of the reasons for this program's success is that it focuses on smaller manufacturing firms and their management. Many of our programs focus primarily on workers and on job retraining, which is important. But this program, Mr. President, emphasizes saving existing firms and existing jobs, and it does it by working directly with management, which often has not kept pace with changing competitive forces. The TAA Program provides expert consulting services to management to help them make the changes that are necessary in their companies to keep pace with change in their industry. By doing that we save jobs, and by putting these companies in a more competitive position for the future we create more jobs.

I encourage all Senators to support this program which has helped so many businesses in each of our States.

Mr. President, on another matter, I want to note that the bill we are now considering will provide funds for extremely important programs at the Department of Commerce's National Institute of Standards and Technology that support the development and commercialization of new technologies. I urge my colleagues not only to appropriate these funds but also to insist on this funding during the conference with the House, which has not appropriated any funds for these critical activities.

The Commerce Department programs will have a significant impact on our national competitiveness. They focus on research and development, technology commercialization, manufacturing extension, training, and education—all essential to the restoration of a competitive industrial base. They help get the latest in manufacturing technology out to smaller businesses that may not know about it.

From my perspective as chairman of the Science, Technology, and Space Subcommittee, I am convinced that these programs can boost our national competitiveness and our national standard of living. They will lead to the creation of new high-tech companies, new industries, and hundreds of thousands—and eventually millions—of new high-skill, high-wage, private sector jobs.

I know that many of the decisions the Appropriations Committee had to make—the decisions to cut off other programs in order to fund the technology commercialization programs—were very difficult decisions. I want to congratulate the members of the committee, and in particular the distinguished manager of this bill, Senator HOLLINGS, for their work in finding the funding necessary for these programs. I urge my colleagues to support these decisions.

Mr. RIEGLE. Mr. President, I rise to offer an amendment to restore funding for trade adjustment assistance for firms.

First I would like to thank the distinguished chairman, Senator HOLLINGS, for his assistance in this matter. This is a difficult job and this bill is a testament to his leadership. I am also grateful to Senator DOMENICI, who has also demonstrated his keen understanding of the need to improve our national competitiveness. This amendment would not have happened without the strong support of Senator DANFORTH, Senator ROCKEFELLER, and Senator MOYNIHAN and I appreciate their help as well.

Mr. President, the Commerce Department's trade adjustment assistance program for firms funds 12 regional Trade Adjustment Assistance Centers [TAAC's] through the Economic Development Administration. One of those centers is the Great Lakes TAAC at University of Michigan. These centers provide assistance to companies within their region under severe pressure from import competition.

The TAAC's are highly successful. According to the Great Lakes TAAC, the return on taxpayer investment in this one center alone has been over 300 percent. Over the past 10 years, the Great Lakes TAAC has helped retain or create over 4,000 well paying manufacturing jobs with an investment of $9 million—at only $2,250 per job.

The other centers have had similar success. According to one estimate, the TAAC's have retained 267,000 manufacturing jobs nationally since 1978. This translates to a $7.3 billion impact on the economy for an investment of $204 million in Federal funds over 15 years.

It has been claimed that other programs can easily replace the TAAC's. However, these other programs provide a different type of service. For example, the manufacturing technology centers specialize in the deployment of modern manufacturing technology. They do not provide the type of marketing, cost accounting, human resources management, and business strategy assistance provided by the TAAC's. The small business development centers typically specialize in assistance to firms in the retail and services sector, not manufacturing firms. Likewise, the minority business development centers exist to serve a specialized need.

All of these programs are compliments to one another, not replacements for each other.

There is also some confusion about the administration's position on this program. In its original budget request, the administration had recommended the elimination of funding for the TAAC's. However, the latest list of President Clinton's specific spending cuts, released by the White House July 16, does not include elimination of TAAC as a requested spending cut.

The administration is now talking privately about the need to integrate the TAAC program better with the rest of EDA and with other Commerce Department programs. I will support administration efforts to revitalize the EDA and strengthen our business assistance programs.

However, eliminating the TAAC's would tear a large hole out of our business assistance and job creation system. We should continue funding for this vital and effective program, while we are working to expand and strengthen the entire business assistance system.

I urge my colleagues to support this amendment.

Mr. MOYNIHAN. I rise to join the Senator from Michigan in offering this amendment to provide funding for the Trade Adjustment Assistance Firm Program.

In the budget reconciliation bill, the Senate extends the Trade Adjustment Assistance Program, currently set to

expire on September 30, for 5 additional years. The Finance Committee, and the Senate as a whole, viewed that extension as critical to ensuring continued help for both workers and companies that are harmed by exports. I am hopeful that the Senate position will prevail in conference.

This amendment is a necessary complement to that provision in the reconciliation bill. This amendment provides further funding for the component of the Trade Adjustment Assistance Program that aids companies by granting them technical help to improve their manufacturing, marketing, and other capabilities in the face of import competition. This program has been with us for more than 30 years.

First outlined in 1954 by United Steel Workers president, David MacDonald, Trade Adjustment Assistance was enacted as part of the Trade Expansion Act of 1962. As Luther Hodges, President Kennedy's Secretary of Commerce, told the Finance Committee during consideration of that legislation:

> Both workers and firms may encounter special difficulties when they feel the adverse effects of import competition. This is import competition caused directly by the Federal Government when it lowers tariffs as part of a trade agreement undertaken for the long-term economic good of the country as a whole. The Federal Government has a special responsibility in this case. When the Government has contributed to economic injuries, it should also contribute to the economic adjustments required to repair them.

The Trade Adjustment Assistance Program for firms has done just that. In the past 5 years, it has helped more than 400 small- and mid-sized manufacturers suffering from layoffs and lost sales due to import competition. The individual success stories are plentiful. For example:

Trade adjustment helped the Curtis Machine Co. of Ensign, KS, improve production in the face of Chinese competition. The result: Jobs up 21 percent, and a 40-percent increase in sales.

The Burdett Apparel Co. of Salt Lake City has seen its profits grow 15 percent since trade adjustment assistance helped the firm redesign its production line.

A family-owned manufacturer of fly fishing equipment in Montana quadrupled its sales to $3 million after receiving technical and marketing assistance that totaled less than $44,000.

Finally, there is Beatty-Page, Inc.—a small Brooklyn company that services the hat industry. The firm's president recently wrote me that trade adjustment assistance "helped improve our business situation and preserve the jobs of our 67 employees."

That is just one of the many letters I have received from New York companies urging us to continue funding the Trade Adjustment Program for firms. My State is home to 1 of the 12 assistance centers that administer this program. That facility, at the State University of New York at Binghamton, has helped New York companies increase their sales by more than $75 million since 1988. Those added sales are all the more impressive considering that the same companies' sales had fallen $8 million in the 2 years before the trade adjustment assistance began.

Nationwide, the story is the same. The program's administrators calculate that it has created at least 3,000 jobs and saved another 40,000 nationwide since 1988—all at firms that had laid off thousands of employees before the aid commenced. It has meant $800 million in added sales—a 35-percent increase—for companies that had lost over $300 million in sales in the 2 years before getting the help. Quite a record of achievement for a program that cost under $14 million last year.

Extending trade adjustment assistance takes on even greater importance this year, as Congress prepares to consider the North American Free-Trade Agreement. I recall casting my first vote on a trade bill back in 1979, when I supported the Trade Agreements Act implementing the results of the GATT negotiations known as the Tokyo round. That legislation included an extension of the Trade Adjustment Assistance Program.

Just as that extension was important to many Members as we cast our votes in favor of free trade 14 years ago, I am certain that maintaining this program in 1993 will be critical to congressional support for today's trade agreements. In fact, as we face intense and growing economic competition from Europe, Asia, and Latin America, the need for a human side to our trade policy is even greater than it was in 1962 or 1979.

For all of the above reasons, I urge my colleagues to support the Senator from Michigan's amendment.

Mr. DOMENICI. Mr. President, on the amendment I want to indicate that Senator DANFORTH is a primary sponsor and has spoken to me about it. After discussing it with him, on our side we are willing to accept it.

Mr. HOLLINGS. Good.

The PRESIDING OFFICER. Without objection, the amendment will be considered in order and agreed to.

So, the amendment (No. 713) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 714

(Purpose: To provide funds for registration of lampricide to the Great Lakes Fishery Commission)

Mr. HOLLINGS. Mr. President, on behalf of Mr. LEVIN, Mr. RIEGLE, Mr. GLENN, Mr. KOHL, Mr. DURENBERGER, and Mr. D'AMATO, I send to the desk an amendment on the Great Lakes Fishery Commission and ask the clerk to report.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from South Carolina [Mr. HOLLINGS], for Mr. LEVIN, for himself, Mr. RIEGLE, Mr. GLENN, Mr. KOHL, Mr. DURENBERGER, and Mr. D'AMATO, and others proposes an amendment numbered 714.

Mr. HOLLINGS. 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:

> Page 68, line 16, strike $1,658,184,000 and insert $1,653,184,000
>
> Page 75, line 6, strike $14,200,000 and insert $18,200,000
>
> Page 75, line 6, after ":" insert, *Provided*, That $4,000,000 shall be made available to the Great Lakes Fishery Commission for the registration of the pesticide, TFM.

Mr. LEVIN. Mr. President, the amendment will provide funds to the Great Lakes Fishery Commission, a United States-Canada binational organization, to allow its activities to comply with U.S. environmental laws. This amendment earmarks $4 million in State Department funds for the reregistration of a pesticide that kills lampreys and is widely applied in the Great Lakes. This amount would be in addition to the funds provided to the Great Lakes Fishery Commission solely for the purchase of the lampricide in fiscal year 1994.

Let me explain to my colleagues what happens if we do not provide this funding. First, if the pesticide is not registered, the Great Lakes Fishery Commission will not be in compliance with U.S. pesticide laws and will be subject to the relevant penalties if it continues applying a pesticide for which there is no substitute. Second, if the lampricide is banned because it is not registered, the Great Lakes States fisheries authorities have indicated that they will discontinue there efforts to develop sustainable fisheries in the Great Lakes. Third, if the lamprey is allowed free region in the Great Lakes because the lampricide is not registered, the $4 billion sport-fishing industry in the Great Lakes will be decimated. Fourth, if the fish population of the Great Lakes declines radically, the agreements that this country and several of the Great Lakes States have with several native American Indian Tribes will be in jeopardy.

Mr. President, this is a serious situation. EPA has already provided some flexibility to the Commission and will be satisfied if substantial progress toward reregistration occurs in fiscal year 1994, but that means this money must be supplied. The Commission was denied $1.3 million in fiscal year 1993 to begin the process and, to fully meet the EPA requirements, this $4 million—$1.3 from fiscal year 1993 and $2.7 in fiscal year 1994—is necessary now.

Let me make it clear to my colleagues, as much as I would like a nonchemical solution to the lamprey situation, there is no substitute. There is nothing as effective or useful for keeping the lamprey population controlled. This pesticide must be reregistered. Since there is only one manufacturer of it in the world, which is not an American manufacturer, since no American businesses have found the product to be sufficiently profitable, there is no choice. The Great Lakes Fishery Commission, the user of the pesticide, must bear the cost of reregistration or there will be no reregistration.

Mr. President, here is the choice: Should we find $4 million in State Department funds to reregister this pesticide and avoid destroying the Great Lakes sportfishing industry and violating agreements with native American Indians or not?

I appreciate my colleagues understanding the importance of this matter.

Mr. HOLLINGS. Mr. President, that has been cleared on both sides, too.

Mr. DOMENICI. It is cleared on our side.

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

So, the amendment (No. 714) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I simply want to thank my friends for clearing this amendment. It is important to the Great Lakes and we are very appreciative.

I thank the Senator.

Mr. HOLLINGS. I thank the Senator.

The PRESIDING OFFICER. The majority leader.

NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993

The Senate resumed consideration of the bill.

Pending: The reported amendment in the nature of a substitute as modified and amended.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now return to the consideration of S. 919, the national service bill, that Senator KENNEDY be recognized to offer his substitute amendment, referred to in last night's unanimous-consent agreement; and that immediately thereafter there be filed two cloture motions on that amendment; that following the filing of the cloture motions, Senators KENNEDY, DURENBERGER, and WOFFORD be recognized for 5 minutes each to address the Senate on that subject, in the order stated; and that following the completion of Senator WOFFORD's remarks, the Senate return to the consideration of H.R. 2519, the Commerce, State, Justice appropriations bill; further that the cloture vote tomorrow occur at 12 noon with the 45 minutes preceding that vote be for debate on the national service bill and that it be divided in the usual form, and that should a second cloture vote be necessary that it occur on Friday, July 30, at a time to be determined by the majority leader, after consultation with the Republican leader, the mandatory live quorum being waived and that Senators have until the time of the cloture vote tomorrow to file second-degree amendments.

The PRESIDING OFFICER. Is there an objection?

Mr. KENNEDY. Mr. President, will the majority leader be kind enough to designate an hour before the vote on Friday evenly divided before the vote on this issue?

Mr. MITCHELL. Mr. President, I modify my request so that if a second cloture vote is necessary and occurs on Friday, that there be 1 hour for debate immediately preceding the vote equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report the bill for the information of the Senate.

The assistant legislative clerk read as follows:

A bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service enhance opportunities for national service and provide national service educational awards to persons participating in such service, and for other purposes.

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

AMENDMENT NO. 709

(Purpose: To provide a substitute amendment)

Mr. KENNEDY. Mr. President, I call up my amendment which is basically the Durenberger amendment which is cosponsored by the Senator from Pennsylvania [Senator WOFFORD].

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself, Mr. DURENBERGER, and Mr. WOFFORD proposes an amendment numbered 709.

Mr. KENNEDY. 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 text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the 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 the debate on a Kennedy substitute amendment No. 709 to the modified committee substitute to S. 919, the National and Community Service Trust Act of 1993:

Donald Riegle, David Pryor, Harris Wofford, Paul Wellstone, Patty Murray, Howard Metzenbaum, Edward M. Kennedy, John F. Kerry, Barbara Boxer, George Mitchell, Byron L. Dorgan, Wendell Ford, Bill Bradley, Kent Conrad, Dianne Feinstein, Ben Nighthorse Campbell.

Mr. MITCHELL. Mr. President, in accordance with the provisions of the agreement just agreed to unanimously by the Senate, I send a second cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the 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 the debate on a Kennedy substitute amendment No. 709 to the modified committee substitute to S. 919, the National and Community Service Trust Act of 1993:

Donald Riegle, David Pryor, Harris Wofford, Paul Wellstone, Patty Murray, Howard Metzenbaum, Edward M. Kennedy, John F. Kerry, Barbara Boxer, Ben Nighthorse Campbell, Byron L. Dorgan, Wendell Ford, Bill Bradley, Kent Conrad, Dianne Feinstein, George Mitchell.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, first of all, I want to express our appreciation to the majority leader for allowing us to discuss this measure which has such broad based support in the Senate and which passed overwhelmingly in the House of Representatives a little over 1 hour ago with the support of 26 Republicans, 248 Democrats, and 1 Independent.

We are continuing to work with other Senators to find consensus.

We have already agreed to accept 14 amendments, almost all of which were proposed by Republican Senators.

The substitute we are introducing incorporates those amendments. It also includes 5 additional amendments

which we have agreed to accept to strengthen the bill. This package of new amendments incorporates proposals by Senators DURENBERGER, KASSEBAUM, and STEVENS. Senator DURENBERGER is the principal cosponsor of this substitute.

It includes specific authorizations of appropriations, and it requires studies by the Corporation to help streamline programs, evaluate the program diversity and assess the importance of the postservice benefit in recruiting.

It includes provisions to ensure that participants perform direct service, and it contains strict limits on administrative costs. In addition, it increases the flexibility of the States to set up and use alternative State commissions.

Finally, it clarifies the provisions to ensure that Native Alaskans and their regional corporations can use the National Service Program.

The substitute proposes a 3-year program that authorizes $300 million in 1994, $500 million in 1995, and $700 million in 1996. The $300 million in 1994 will build on the pilot programs funded over the last 3 years through the Commission on National and Community Service. The program will still start at a size of 20,000 participants in the first year.

The substitute also requires specific studies by the Corporation. It directs the Corporation to study issues such as: the importance of diversity of programs, the role of post-service education benefits in attracting national service participants, and how the structure of ACTION and the Commission on National and Community Service can best be integrated into the new Corporation for National and Community Service. These studies will make the program stronger by testing the validity of some basic concepts of national service.

We have also put in clarifying language to ensure that national service participants are not involved in lobbying. This was never the intent of the legislation. The participants should be doing service which directly benefits their communities. The language we have added will ensure that the service is not political, but addresses vital community needs.

We have placed limits on administrative costs, so that the maximum amount of funds goes directly to participants and not to administration. The goal of the program is to ensure that it is streamlined and entrepreneurial, so that all of the funds will be spent effectively.

We also provide greater flexibility for State administrative structures. The 1990 act required each State to designate a "State lead agency." Through this language, the Corporation can reward States which did an effective job in fashioning their administrative structure.

Finally, we have revised the definitions to ensure that Native Alaskan tribes and regional corporations can apply for funding under the full-time national service corps and under the Public Lands Corps Program.

All of these changes make the bill more bipartisan and more effective and I urge the Senate to approve it.

Mr. President, I would like to take my final few moments to bring to the attention of the Senate the excellent statement made by Representative STEVE GUNDERSON, a Republican from the State of Wisconsin.

I will include it all in the RECORD. As I understand, it was submitted to a number of national journals.

Let me briefly repeat some of the comments that he made.

DEAR REPUBLICAN SENATOR: * * * As a fellow Republican committed to deficit reduction and becoming a party of new ideas, I plead with you not to [filibuster]. * * *

But most importantly, I urge you not to allow our party to become "the obstructionist" party.

He continues:

But my real concern in writing is that our opposition on this legislation, in its present form, will certify to the nation that Republicans indeed have no desire to work in a bipartisan fashion at any time on any issue. We will be as guilty of partisan obstructionism as the Democrats were to George Bush. And I can tell you if we become a party of full-time nay sayers, even when the President meets us more than half-way, the public will not respond kindly. * * *

At a time when the American people are desperately cynical about Washington, we Republicans have a chance to show the best of bi-partisanship, not the worst of gridlock. If we Republicans kill National Service, the public can legitimately ask: "What are we for? How do we hope to solve urgent problems while still cutting spending? Is there anything on which we are willing to work with the new President?"

Mr. President, I ask unanimous consent that the letter from Representative GUNDERSON be printed in the RECORD.

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

PLEASE SENATORS, DON'T DO IT

DEAR REPUBLICAN SENATORS: News reports over the week-end suggest that you have decided to filibuster National Service. As a fellow Republican, committed to deficit reduction and becoming a party of new ideas, I plead with you not to do it. But most importantly, I urge you not to allow our party to become "the obstructionist" party.

Since Bill Clinton became President, we Republicans have been screaming "Cut spending first". We still should. But nowhere in that statement do we suggest that all government must become static. It is exactly at times like this that we must look for new and creative ways to solve urgent national and local problems. Even the Democrats will be cutting medicare and law enforcement funds. shouldn't we then encourage local initiatives to address these critical areas with new initiatives, that meet real needs without the top down bureaucracy, federal regulations, and old funding formulas that just don't work?

A young dedicated Republican from my rural Wisconsin district is presently teaching in the inner city of Los Angeles. He wrote to me recently, explaining why Republicans should be supporting National Service. He wrote, national service "is not the typical social reform template that is forced on our country's various and sundry social ills by some unresponsive and insensitive federal agency. The structure recognizes that the people who are best able to create solutions to the problems of a given community are those people most closely exposed and affected by that problem."

But my real concern in writing is that our opposition on this legislation, in its present form, will certify to the nation that Republicans indeed have no desire to work in a bipartisan fashion at any time on any issue. We will be as guilty of partisan obstructionism as the Democrats were to George Bush. And I can tell you if we become a party of full-time nay sayers, even when the President meets us more than half-way, the public will not respond kindly.

I too, opposed the original concept of national service that required students to perform public service as a condition of financial aid. I too, opposed the original Clinton proposal. But the legislation now before Congress represents dramatic concessions by the President in a way that produces the ideals of the Democratic party, but through a delivery system that fits every standard of the Republican Party.

Consider the concessions President Clinton has made. Originally it contained direct lending. Now it does not. Originally it created another entitlement program. Now funding is subject to annual appropriations. Originally, it cost $7.4 billion. Now it authorizes $394 million the first year, and such sums as Congress desires in years two and three. Any other spending is simply transferring existing volunteer programs to one central administration to eliminate duplication—a very Republican thing to do. Originally it added thousands of new employees to the federal civil service system. Now it creates a special category that does not provide civil service protection during a two year service commitment. Originally, it competed with the GI bill in benefits. Now it provides less educational awards, and dramatically less in wages and benefits during the service stint. Originally, it provided wages similar to the military. Now it provides maximum flexibility to the point of even allowing the option of sub-minimum wages in unique circumstances—how Republican can we get? Originally, it was all federally funded. Now it is a federal-local cost share awarded through competitive grants.

At a time when the American people are desperately cynical about Washington, we Republicans have a chance to show the best of bi-partisanship, not the worst of gridlock. If we Republicans kill National Service, the public can legitimately ask; "what are we for? how do we hope to solve urgent problems while still cutting spending? is there anything on which we are willing to work with the new President?"

Representative STEVE GUNDERSON.

Mr. KENNEDY. Mr. President, I want to just point out the very important, support we have received from a number of members of the Republican Party.

For example, I see my friend and colleague Senator DURENBERGER on the floor at this time; Senator JEFFORDS has supported this program; Senator CHAFEE has supported it; Senator GREGG and Senator COATS voted for the

measure as it came out of the Labor Committee itself. Others at other times have supported our efforts.

We are still, as I mentioned earlier, attempting to try and find additional common ground and will continue to do so, because we believe that this program is so important.

We look forward to trying in these remaining hours to seek any possible further common ground so that this legislation can be enacted and so that young Americans can be offered opportunities to give something back to America in return for all it has given to them.

I withhold the remainder of my time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Republican leader.

Mr. DOLE. Mr. President, let me indicate for the Record that I listened to the Senator from Massachusetts. I do not disagree with everything he said.

But there is no filibuster. We are trying to negotiate some settlement here in good faith. As the Senator from Massachusetts indicated, we thought we had an agreement. In fact, as indicated by the White House, they were going to accept the proposal we made. And if there is a real effort to bring more Republicans on board, I still think there is a way to work it out.

Some of my colleagues on this side do not support the program. Others of us are trying to find some compromise. We thought we had a compromise. It had been agreed to by the White House and then later rejected for some reason.

And if there is some way to resolve that issue, then we believe we can pass this bill very quickly, maybe with other amendments offered. But I think once we agree on the funding level, the balance would not take very much time of the Senate.

But I wanted the record to show there has not been any filibuster. We have been negotiating. We have done that for years in the Senate.

I note that some people immediately say, as soon as it does not happen in an hour or two, somebody must be filibustering.

There is not any filibuster. We have been negotiating.

I have called the President today. I met with Eli Segal at length in my office. I met with my colleagues on this side of the aisle for probably 3 or 4 hours during the day.

So I want the record to reflect there is a good faith effort going on here trying to bring about a resolution where we would have at least half the Republicans, maybe more, supporting this program, even though some may have reservations about its impact and whether or not it has achieved every goal the President outlined.

Mr. KENNEDY. Mr. President, I wish to make a few further points. At the end of last week, when the majority leader asked for a time definite, we had only five amendments left. There was no real need for additional amendments or time. We were more than prepared to consider these final amendments. But now these Republicans delays must be viewed as a filibuster. When the majority of the Members support a bill, but do not permit the Senate to vote on final passage, it is fair to term the obstuctionist efforts as filibusters.

Nonetheless, I hope the minority leader's statement and comments represents a newly found interest in negotiation and compromise. I hope we will pursue this negotiation through the evening and through tomorrow morning in the effort to reach agreement.

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

Mr. DURENBERGER. Mr. President, I rise to join my distinguished colleague from Massachusetts in introducing the substitute that is now before us.

As I do, I want to reflect that the substitute represents the contributions of many Senators on both sides of the aisle. As has probably been pointed out before, we have been on this bill now since July 20, but, as the Republican leader indicated, the 8 days intervening have not been because Republicans did not want to see this bill considered, but because a lot of people have had a great deal to contribute to the process.

The substitute before us is not the same bill that the President asked us to pass. In fact, it is a substitute for the bill which we passed from the Labor and Human Resources Committee. That bill, as I recall, contained the support of four or five Republicans, including Senators GREGG and COATS, whose names have not yet been mentioned here to date.

So, the substitute which has on it the names of the Senator from Massachusetts and my own, I say is a good faith effort to respond to the concerns that have been raised over the last several days. This process has been a good faith effort to meet the needs of the constituencies that all of us on both sides of the aisle represent.

I want to express particular appreciation to our ranking member on the Labor Committee, Senator KASSEBAUM, because both she and her staff have spent countless hours, both in the committee and in the process developing a variety of improvements the National and Community Service Trust Act, all of which I hope we have incorporated into this substitute amendment.

I pay tribute also to my colleague Senator JEFFORDS who, from the beginning, has tried to mold this in a way that will result in a bipartisan bill.

Senator DOMENICI, Senator STEVENS and others have made valuable contributions to the substitute that is before us as well.

In my own case, Mr. President, this is not my first set of contributions to I hope to make in improving the legislation. The legislation, when it was introduced, was a national service bill. It is now the National and Community Service Trust Act. The contribution of the word "community" comes from people in Minnesota and other places who have been committed to community service for a lifetime.

This legislation includes a number of features designed to decentralize decisionmaking and priority setting, and to allow States flexibility in determining how they structure the commissions this bill authorizes.

That is very important to my own State of Minnesota which has a well-established infrastructure for youth and community service—enhanced even further by legislation adopted earlier this year to establish a new, comprehensive youth service program called YouthWorks.

The legislation now ensures more representation from various stakeholders in youth and community service on state and Federal grantmaking agencies—including the participation of young people.

And, as the chairman noted earlier, Mr. President, this legislation now includes an amendment I strongly supported which limits the so-called Corporation Representative authorized by this bill to ex officio, non-voting membership on State commissions on national and community service.

And of these suggestions for changes or improvements had strong backing from the leaders of Minnesota's youth and community service movement.

They have been of enormous help to me in making a positive contribution to this legislation and I look forward to maintaining this strong partnership as this important new initiative goes forward.

As my colleague from Massachusetts pointed out, the House took not very long to pass this bill today. It is a different body with a different process. But, it was apparently a large vote, 257 to 152, and there were 26 Republicans who voted for that bill.

I hope my colleagues have taken or will take the time to read, in the RECORD tomorrow, the letter dated July 9, 1992, which we have all received from STEVE GUNDERSON, CHRIS SHAYS, and a number of our colleagues on the House side who make some of us, at least on this side of the aisle, proud to be Republicans because of their commitment to the national and community service.

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

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

CONGRESS OF THE UNITED STATES,
July 9, 1993.

NATIONAL SERVICE—TRULY REPUBLICAN

Dear Republican Colleague: As Republican cosponsors of H.R. 2010, the National Service Trust Act, we encourage you to take a close look at the legislation proposed by President Clinton and reported out of the Education and Labor Committee, with slight changes.

We believe national service is a basic Republican idea and that the President's proposal is structured as a Republican would have structured it and that it deserves broad Republican support.

Establishing a program of National Service promotes sound public values while providing a measure of college tuition assistance and a significant benefit to our communities, state, and nation. Young Americans across the country will participate in programs addressing the many challenges of our communities including illiteracy, child immunization, environmental enhancement, crime prevention, and drug education.

This program will produce young Americans with a sense of individual and civic responsibility and a keen understanding of the value of service.

National service participants all disperse throughout the country, carrying with them a belief that personal betterment results from contributing to the betterment of society and enriching the lives of others.

Some have said the President's national service proposal will compete with existing non-profit organizations—not so. In fact, the program's very structure builds upon these institutions and harnesses their energy to magnify the impact of service in local communities.

While we currently provide grants and loans to students on a needs basis, this program embodies the truly Republican principle of having individuals earn the right to educational assistance.

The decentralized nature of the organizational structure ensures decisions will be made at the state and local level by people who know that community's needs are and the best ways to address these needs.

Lastly, we want to clear up any misunderstanding regarding the relationship of this legislation to the proposed restructuring of the guaranteed student loan program. H.R. 2010, the National Service Trust Act, contains NO provisions providing for direct lending. These two proposals are contained in entirely separate pieces of legislation.

Finally, it should be noted this legislation contains a specific authorization only for fiscal year 1994 and authorizes "such sums" in the out years. Congress will need to appropriate funds each year based on the program's ability to support continued or increased funding.

When the Senate Labor and Human Resources committee reported this legislation, it did so with the support of four of the Committee's seven Republicans. In the House, 19 Republicans signed on as original cosponsors of this legislation, which was reported by voice vote out of the Education and Labor Committee.

We hope you will carefully consider the impact this legislation will have and that it will have your support on the floor.

Sincerely,

Christopher Shays, Ben Gilman, Ron Machtley, Steve Horn, Connie Morrella, Pete Hoekstra, Peter Torkildsen, Arno Houghton, Steve Gunderson, Rica Lazio, Jay Dickey, Doug Bereuter, Olympia Snowe, Tom Lewis, Peter Blute, Fred Upton.

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Mr. DURENBERGER. Mr. President, I think with the numerous changes that have now been made in the President's original proposal, we can all have some hope that within the next few hours, certainly within the next day, we are going to be able to adopt a national and community service proposal and we will adopt it with strong bipartisan support.

I, frankly, believe the cloture vote tomorrow will be unnecessary. Maybe that is just a hope, but I have watched the efforts of my colleagues on this side of the aisle, trying to find a solution to a problem which largely is not the commitment to national and community service but rather to the predictability of this bill. We have had a lot of support over here for being able to do a better job in measuring the outcomes of this program.

On this side of the aisle, and I know this is shared, an important change in this legislation had to be that we do a better job of measuring outcomes so they could be defined, they could be demonstrated, they could be proved. These programs are not going to grow faster than we can be able to pay for them. They should not grow faster than the ability of States and local communities to enforce them. Changes in this substitute will guarantee that, and not keep us from meeting our commitment to the Pell grant program and other higher education programs. Charges have also been made by a lot of people on this side of the aisle to give some definition to the amount of money to be authorized. That, in effect, is the bottom line of the debate that goes on in the other rooms in the next few hours.

Will this be $300 million in the first year and $500 million in the second year and some other figure in the third, as we propose? Or will the issue of the third year be dealt with differently? That is how close we are.

I urge my colleagues, if they want to bring this to an end tomorrow that they support this substitute. Certainly if we can find a way to accommodate that third-year issue, I am sure the Senator from Massachusetts and I, and my colleague from Pennsylvania will be more than pleased to address that in a modification.

Otherwise, this is the kind of amendment to this bill that will deserve Republican support. I hope it will bring Republican support on final passage.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania for 5 minutes.

Mr. WOFFORD. Mr. President, I too, hope that by tomorrow's countdown we will be able to launch the national service program in a way that it can take off and give new hope and vitality to our young generation in an effort to change our country and improve our country and help young people get through college. We are very close at this point, having been started on the road of cloture Thursday evening when the Republican leader advised us—advised the majority leader—if he were in his shoes he would file a motion for cloture.

When we started the Peace Corps we had much the same process. Those who doubted, those who said no, said let us make it very small, very much of a pilot program. And Sergeant Shriver and John Kennedy said it must be started with a critical mass, with a quantum jump in a way that can catch the imagination of the people and can truly take us to a new stage in service overseas.

We have invested in the Peace Corps. The naysayers did not win them. We look back now on the Peace Corps as one of the better investments, probably the best investment in foreign aid.

But we spend 2½ times the amount of money for each Peace Corps volunteer than we are proposing to spend for the $5,000 educational bonus and the minimum wage for the young participants in national service. It is time to bring not only the idea of the Peace Corps home, but it is time to enable our young people to engage in national service, community service, at home. We have problems at home that are at least as urgent as the problems for which we sent the Peace Corps abroad.

What is the critical mass that can start this in a way to give hope and light? I think the streamlined version, where we have gone the extra mile, that is before us now accomplishes that. The sums proposed for 3 years will enable, after 3 years, 100,000 young people to engage in community service, to make a difference in their community, and to help them go through college and get job training. It took the Peace Corps more than a quarter of a century to have 100,000 young people. It is a good, sizable start.

Some have said it is too big. Some have said it is too small. It is just about right, and we have the chance now to get that started.

We know there are Republicans who want to vote for this bill. They did in the House. They have spoken eloquently. The Senator from Minnesota could not have been a greater champion of this bill; and the Senator from Vermont, [Mr. JEFFORDS]. There are lots of other Republicans who want to vote for this bill. Let those voters go. Let my colleagues free from this lock of the filibuster that holds them back at a time when we are ready to act. Let those Republicans loose because this has been a bipartisan idea from the beginning.

I would like to put in the RECORD to show that, and will ask unanimous consent to have printed in the RECORD, some of the statements from the leading Republicans who have spoken on this bill.

I ask unanimous consent to have printed in the RECORD, before we come to this countdown for cloture tomorrow, the statements of a dozen or so major corporate leaders in our society, and the list of 95 college and university presidents, including nine from Pennsylvania, who support this bill. I would like to put in the RECORD the editorials in the last day or two: From the New York Times, "Petty Politics on National Service." "National service could eventually draw hundreds of thousand of Americans into serving needy communities and give participants the means to pay for higher education." The strategy, the "just-say-no strategy may make for shrewd politics, but it renders poor public—and national—service." The Washington Post editorial of today; The Philadelphia Inquirer, "Blocking National Service; a little band has apparently decided to put party ahead of country." The Washington Times editorial, "Imperiling The Plan To Harness Idealists;" the Providence Journal editorial. I would like to have printed Father Theodore Hesburgh's article from the Chicago Tribune, "The promise of national service," which concludes, "President Clinton has offered us a nonpartisan way of making this Nation a better place for all Americans, both for those who serve and those who are served."

I would like to put in the RECORD the full letter from Elizabeth Dole, the President of the American Red Cross, saying: "We particularly support this act's strong emphasis on renewing the ethic of civic responsibility; Engaging locally based and diverse organizations in a system of service delivery that is both decentralized and nationwide; Providing service opportunities for both stipended and nonstipended participants" and saying we of the American Red Cross "look forward to the bill's passage into law and to the opportunity of offering more than 100 years of Red Cross experience to its implementation."

We can come together on this bill. We have the time to do it in the hours before this cloture vote tomorrow. I call on my colleagues on both sides of the aisle to support this cloture vote if that is necessary, and my friends on the other side of the aisle to join the President, going the extra mile to get this launched in the kind of bipartisan way it has been launched in the House of Representatives.

Mr. President, I ask unanimous consent that that material and some other supporting documents be printed at this point in the RECORD.

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

AMERICAN RED CROSS,
Washington, DC, July 9, 1993.

Hon. WILLIAM D. FORD,
House of Representatives, Washington, DC.

DEAR SENATOR FORD: The American Red Cross supports HR 2010, the National and Community Service Trust Act of 1993. We welcome your continued efforts to enhance opportunities for all Americans to serve their communities. We particularly appreciate the proposed act's strong emphasis on:

Renewing the ethic of civic responsibility;

Engaging locally based and diverse organizations in a system of service delivery that is both decentralized and nationwide;

Facilitating the replication of existing successful service programs; and Providing service opportunities for both stipended and non-stipended participants and for persons of all ages.

We understand that community service is neither a panacea for the nation's problems nor a substitute for traditional volunteerism. However, your bill will enlarge the means by which individuals can make a difference in their community.

We look forward to the bill's passage into law and to the opportunity of offering more than one hundred years of Red Cross experience to its implementation.

Thank you for your leadership in this vital area.

Sincerely,

ELIZABETH DOLE.

[From the Chicago Tribune, June 14, 1993]

THE PROMISE OF NATIONAL SERVICE

(By Theodore M. Hesburgh)

On Sept. 11, 1992, then-candidate Bill Clinton delivered a defining speech at the University of Notre Dame. He shared his vision for national service, its roots in Judeo-Christian social thought, and issued a challenge for all Americans—but especially the young—to serve according to their means and talents.

Several weeks ago, the House and Senate introduced the president's proposal that will translate the vision he articulated at Notre Dame into flesh.

National service is an idea that knows no party. The plans and goals that President Clinton has laid out go beyond conventional politics, beyond what we label Left and Right, conservative and liberal. It even extends beyond any one president's initiative.

Some 32 years ago, I helped another young president formulate plans for another experiment in national service—the Peach Corps. Now it is time to bring the spirit of the Peace Corps home and to couple the spirit of helping others—of building community—with the goal of expanding educational opportunity through a new version of the GI Bill of Rights. President Clinton has fashioned a bold public-private partnership—a Corporation for National Service. This will not be a new federal bureaucracy. Rather the Corporation for National Service will help develop programs from the grass roots up.

At its essence, the National Service Trust Act of 1993 simply asks all of our nation's institutions—elementary and secondary schools, civic organizations, businesses and foundations, churches, government, nonprofits, colleges and even young people themselves: How best can you make use of the tremendous talents of our nation's young people? It is an open invitation to their imagination and generosity.

In 1979, now Sen. Harris Wofford, Jacqueline Wexler and I chaired the Committee for the Study of National Service. Our bipartisan committee recommended much of what President Clinton has proposed. In our report "Youth and the Needs of the Nation," we suggested "[E]stablishing the National Service system as a public corporation chartered and funded by Congress but drawing its leadership largely from the private sector of American society."

Many are impressed that at Notre Dame approximately 10 percent of our graduating seniors go on to a year or more of full-time service and that we have made community service a common expectation of our students and our graduates. President Clinton now offers us a vehicle to help make service a common expectation for all in our country. His plan will reinforce and bolster what is already working at Notre Dame and local communities across the nation.

Whether this new effort grows in future years to 100,000 young people in service to America as the president hopes will depend on its demonstrated success in transforming the lives of our young people and addressing pressing community needs such as illiteracy, poverty, homelessness, inadequate education, access to health care, pollution and unsafe streets.

Roosevelt's Civilian Conservation Corps in the 1930s and now many of the grass-roots efforts that have sprung up all over the nation demonstrate that service is cost-effective. National service does provide awards for education and job training to young people, but to suggest that is all it does misses the mark. The young people in turn provide valuable benefits to their communities and in the process many of the job skills that employers are looking for today, most importantly a work ethic, teamwork and personal responsibility.

Echoing this sentiment, the bipartisan Council on Competitiveness endorsed in its March report to Congress and the president a national service corps as a means of improving school-to-work transitions and honing our economic edge. In Pennsylvania, the statewide youth corps (whose motto is "Serve, Earn and Learn") returns $1.81 in services rendered for every dollar invested. The California Conservation Corps (whose motto is appropriately "Hard Work, Low Pay, Miserable Conditions . . . And More!) shows similar results.

And the president's plan goes beyond just full-time service. It includes school-based service-learning—a method of instruction that allows students to earn academic credit through real work applications. Service-learning offers a means of reforming education and improving academic achievement and retention rates by changing the way teachers teach and students learn. And for less than $2.50 an hour, the Older American Programs in the president's plan have been reducing education and health-care costs by empowering seniors to take care of poor children and other seniors in need.

Our 1979 report concluded, "[A] nation has no greater potential resource than its youth, and National Service may prove to be a vitally necessary way to develop that potential. Since such service appears to us to be a critically missing dimension in the education and development of American young people for an adult life of productive work and good citizenship, we think that the sooner a system of National Service is established, the better for the nation."

With competence and commitment, echoing the call of John Kennedy many years ago, President Clinton has offered us a nonpartisan way of making this nation a better place for all Americans, both those who serve and those who are served.

[From the New York Times, July 28, 1993]

PETTY POLITICS ON NATIONAL SERVICE

Two years or three? It's a trivial difference, but Senate Republicans think President Clinton's national service initiative is worth scuttling for the sake of knocking a year off the life of the program.

But what is really at issue is not the length of the program, or even its cost. The Senate minority leader, Robert Dole, seems to be marshaling a filibuster to deny President Clinton a major legislative victory at any cost. The Senate will vote tomorrow on breaking the filibuster; there's a chance enough Republicans will rise above partisan politics to support the worthy bill.

The Administration proposes to provide volunteers with minimum-wage salaries and up to $10,000 in grants for higher education in exchange for two years of tutoring students or other public service. Many Republicans support the idea; several, like Arlen Specter of Pennsylvania and John Chafee of Rhode Island, are co-sponsors.

But to Mr. Dole, no idea is too good to escape use as political fodder. So he has applied the all purpose pejorative "tax and spend" and marshaled a filibuster. The ostensible reason was the possibility that costs would skyrocket.

The Democrats have tried to accommodate: They agreed to spend less than $400 million in the first year, enrolling only about 20,000 participants. But Republicans objected that costs in later years weren't specified. So the Democrats proposed to cap annual spending at $300 million in the first year, $500 million in the second and $700 million in the third. They also agreed—as a way of targeting benefits on the needy—to tax the education grants. But these concessions weren't enough for the Republicans. They wanted a two-year program, after which Congress would decide if the program was worth continuing.

On the merits, the Democrats are right. Two years is barely enough time to get the administrative machinery in place and insufficient time to learn if the program works. Besides, it's hard to swallow the Republicans' tax-and-spend complaints: Congress would be in complete control of the costs year by year.

National service could eventually draw hundreds of thousands of Americans into serving needy communities and give participants the means to pay for higher education. Mr. Dole's just-say-no strategy may make for shrewd politics, but it renders poor public—and national—service.

[From the Washington Post, July 28, 1993]

A CHANCE FOR NATIONAL SERVICE

Sometimes it's hard to distinguish between narrow, partisan obstructionism and hard bargaining in the pursuit of a fair compromise. Take the battle over President Clinton's national service program. It's dear to Mr. Clinton, who harbors memories of how creation of the Peace Corps in the Kennedy administration sent a message of service and sacrifice to a whole generation. The Clinton program would encourage young people to give a year or two for law enforcement, education, the environment and assistance to poor neighborhoods. Volunteers would receive living stipends of about $7,000 a year and then a $5,000 award for each year in—to be used to pay off student loans.

Until last week, the proposal seemed set for passage with bipartisan support. But in what is fast becoming a ritual. Senate Republicans objected to the program as too expensive and threatened a filibuster. To block a filibuster, the Democrats need 60 votes, but hold only 56 seats in the Senate. Democrats have picked up support from two Republican to block the filibuster—Sens. James Jeffords and David Durenberger—but that still left them two votes short yesterday. So the administration went negotiating.

It's important to distinguish between two groups of Republican holdouts. One group that notably includes Sen. Nancy Kassebaum of Kansas seems genuinely interested in passing a service program, but worries about the expense of the Clinton plan and wants more experimentation before a full-scale program is launched. These are fair concerns. But many other Republicans seem mostly interested in blocking any initiative that might make Mr. Clinton look good, and are in the position of being able to use Sen. Kassebaum as a front.

To its credit, the administration has been willing to scale, back its plans to win a bill. Having once talked of spending as much as $7.4 billion on the program over four years, it is now willing to back a $1.5 billion plan over three. Republicans proposed $800 million over two, which the Democrats rejected as providing insufficient time to test the program. With an earlier version of the bill set to pass the House today, negotiations with Senate Republicans will continue.

Getting pushed by Senate Republicans to cut back his program may not have been the worst thing for Mr. Clinton. A scaled-back program may have a better chance of working, and it can be build upon. But the administration has gone a long way toward accommodating Republican concerns. Now it's time for moderate Republicans who say they support national service (among them Sens. John Chafee and Arlen Specter) to demonstrate that they're willing to break with pure partisanship in the interest of a worthy program. Agreement is well within reach.

[From The Philadelphia Inquirer, July 28, 1993]

BLOCKING NATIONAL SERVICE

DOLE'S LITTLE BAND HAS APPARENTLY DECIDED TO PUT PARTY AHEAD OF COUNTRY

In their attempts to frustrate President Clinton by impeding passage of his national-service initiative, Senate Republicans have shown that their party is so obsessed with sticking it to President Clinton that any thought of doing what's good for the country has vanished from their thought processes.

National service, a plan that lets college students partly pay off tuition loans by doing needed work to help the country, is no new, untested concept. Its roots are found in the GI Bill, the Peace Corps, VISTA and numerous state programs. Pennsylvania, for example, can point to Penn-SERVE, an array of community-service programs started five years and championed by U.S. Sen. Harris Wofford during his tenure as a state government official.

The idea of national service should renew America's sense of common purpose and help rekindle idealism in America's youth. It should bring Americans together, instead of driving them apart. The concept is so exciting that at one point a Republican Senator, Dave Durenberger of Minnesota, asked Mr. Clinton to start the program even before it's formally enacted by recruiting students to help the Midwest flood cleanup.

What's getting in the way now is plain old partisan politics. Senate Minority Leader Robert J. Dole has lined up the Republican senators to filibuster against national service, pressuring Republicans who favor the program, like Sen. Durenberger and Pennsylvania Sen. Arlen Specter (a putative cosponsor) to put party over country.

The GOP reasoning apparently goes like this: Don't give the President anything he can take credit for.

Or maybe it's even more sinister than that. Perhaps Republican leaders fear that the program would work; that young Americans might start reaching out across divisive lines of race and class to solve America's problems by helping children to learn and by policing our cities. Perhaps that just doesn't fit into the elitist Republican world view.

Never mind that in negotiations led by Sen. Wofford the administration already has agreed to cut back an already scaled-back program. Never mind that playing brinksmanship now could actually wind up killing a bill even some Republicans think would be good for the country.

[From the Los Angeles Times, July 27, 1993]

IMPERILING A PLAN TO HARNESS IDEALISM

In what is threatening to become a trademark display of obstructionism, Senate Republicans last week mounted their fourth major filibuster of the year, this time to block scheduling of a vote on President Clinton's national service plan. And in the overall effort to block the program, some Republicans are engaging in deception about the popular bill. Their critical statements about the long-term costs and benefits of this plan, which offers educational grants in exchange for public service, verge on the ludicrous. Let's set the record straight.

The national service measure is based on a simple idea. It would authorize educational grants of up to $5,000 a year each for the participants, numbering 150,000 by 1997, in exchange for their agreement to tutor grade school students, help senior citizens or perform other public services.

Clinton sold the idea during his campaign last fall as a way to kindle anew a sense of public spirit as well as to help students struggling with high college tuition costs.

Clinton originally intended the initiative to begin last month. But the program has been delayed—and significantly scaled back—as Congress has wrangled over the President's budget package.

Clinton hoped to involve millions of participants and to provide grants larger than the $5,000 in this bill. Under the current version, only 20,000 to 25,000 persons would participate the first year, at a cost of $394 million. Nonetheless, even the attenuated plan is worth doing.

The program has a good deal of popular support. Its virtue lies in its promise to tap the creative energy of young people, to reward them for serving their country and communities and to help them finance their education.

Yet, to Sen. Bob Dole of Kansas, Republican leader of the Senate, the legislation is another example of "willy-nilly mortgaging of our future." Come again? National service is not another government handout. Indeed, it is a cost-effective way to help Americans help themselves while providing necessary services to communities that government might otherwise have to fund.

Opponents have fought the measure with increasing vigor since last Tuesday. Supporters insist that a fair compromise is possible. A vote to end the filibuster is scheduled for today. The Senate should stop the games and pass this bill. Clinton isn't going to get very much of his original budget proposal out of this deficit-oriented Congress, but the national service idea deserves a try.

[From the Providence (RI) Journal, July 27, 1993]

FREE THE SERVICE BILL

In filibustering against President Clinton's national service bill, some Senate Republicans are using obstructionist tactics to

block a promising initiative. The idea behind the bill—offering educational credits to young people in return for public service—has won wide acclaim from Democrats and Republicans alike. Preventing even a Senate vote on the measure, as Sen. Bob Dole would have his GOP colleagues do, is wrong.

Many young Americans cannot find work. Many of them would benefit greatly from more education, but cannot afford the bill. With the nation feeling severe social strains these days, and with a long agenda of unmet social needs, there is a compelling logic behind such a unifying program.

Mr. Clinton has already cut back his original national service proposal to meet tight budgetary restrictions. As it stands now, the bill would set up a pilot program to fund up to 25,000 jobs at a first-year cost of $394 million. This experiment could well prove successful enough to be worth expanding. The Republicans' attempt to block this initiative is shortsighted and self-serving. The Senate should be able to vote on the bill's merits. Senator Dole, who at times seems mostly propelled by negative politics, should let the Senate's business proceed.

[From the Washington Post, July 23, 1993]

GOP IS THREATENING TO IMPEDE CLINTON'S NATIONAL SERVICE BILL

"Senate Republicans," who appear ready to filibuster just about everything Democrats throw at them, are threatening to delay or block passage of President Clinton's national service bill in hope of forcing Democrats to cut the scaled-back program even further.

Democrats are exploring possibilities for compromise but say they are not prepared to gut the program as the price of avoiding a showdown over cloture to end a GOP filibuster.

"There's room for compromise," said Sen. Edward M. Kennedy (D-Mass.), chairman of the Labor and Human Resources Committee and floor manager of the bill. "The concept of community service has a long history of bipartisan support. The heart of the current controversy is details, scope and funding, not basic principles. It's not a serious filibuster yet."

Sponsored by Democrats spanning the party's philosophical spectrum, the bill would authorize $394 million to begin a program under which participants would receive stipends for education in exchange for community service.

The program initially would provide $5,000 a year to 25,000 participants, a small down payment on Clinton's campaign promise to put a college education within reach of all Americans.

Similar legislation is expected to be approved next week by the House.

Judging from Senate votes this week on substitute proposals advanced by Sen. Nancy Landon Kassebaum (Kan.), ranking Republican on the labor committee, Republican on the labor committee, Republicans may have the votes to block cloture. Democrats succeeded in blocking Kassebaum's proposal with votes of 59 to 38 and 57 to 42, but that's short of the 60 needed to cut off debate.

In what rapidly is becoming a regular matting dance on the Senate floor, Majority Leaders George J. Mitchell (D-Maine) politely asked Minority Leader Robert J. Dole (R-Kan.) late Thursday whether "we will be permitted to get to a final vote or whether it will be necessary for us to file a cloture motion" on the bill.

Just as politely, Dole said he could not say when a vote would be permitted and added: "I would suggest maybe filing a cloture motion." Mitchell did so, and the cloture vote will occur Tuesday if an accommodation has not been reached.

Some Republicans, including Kassebaum, have qualms about filibustering anything as popular as national service but are going along with the strategy to try to win concessions. "If we can agree on lower costs and putting this on a pilot project basis, if could get more support," Kassebaum said.

Sen. David L. Boren (D-Okla.), a supporter of national service, said he thought a compromise was possible along the lines of 20,000 participants the first year and 40,000 the second. "But if they really want to go to the mat over national service," he said of the GOP, "I think they'll be making a big mistake."

[From the Washington (DC) Times, July 27, 1993]

STUDENTS RALLY FOR NATIONAL SERVICE

About 500 college-aged voters rallied in a Senate hearing room yesterday on behalf of President Clinton's national service program, the target of a Republican filibuster.

The young activists delivered to senators 20,000 signed postcards supporting the legislation, which would allow college students to swap community service for living and tuition costs.

Some Republicans in the Senate have been trying to block the bill via a filibuster. A vote is expected today on whether to cut off the debate.

The rally was put on by the College Democrats, MTV's "Rock the Vote" organization and other groups.

[From the Washington Post, May 2, 1993]

CHANCE OF A LIFETIME

(By Roger Landrum)

President Clinton's proposal to link National Service with federal college scholarships or loan forgiveness packs a powerful political punch. It evokes memories of a GI bill rewarding the young men who won World War II with a college education—a venture that also revitalized American higher education. For younger voters and their parents, a National Service Trust Fund is also the modern political equivalent of "a chicken in every pot."

But with the size of the federal deficit and competing priorities for human resources investment, skeptics say that fulfilling a pledge to reward civic service with federal education assistance is impossible beyond a token effort. Not so. A transforming social initiative can be forged if a new kind of national service vision comes to the fore.

The good news for the president is that the new national service has been taking shape in the nonprofit sector for a decade. The scale is still small, but most of the pieces are in place. A new model of national service that will last for generations, far beyond the Clinton administration, cannot be built overnight, nor can it carry only the Clinton imprint; it must be bipartisan. And to capitalize on the strengths of our society, it needs to be a joint venture of corporations, foundations, educational institutions, the nonprofit sector and government at all levels.

One thing is certain. The new national service cannot be created with a stoke of the presidential pen or constructed with old habits of federal action.

National service used to be defined as a monolithic and one-dimensional federal program following the models of military forces, Franklin D. Roosevelt's Civilian Conservation Corps, and John F. Kennedy's Peace Corps. These programs were built on the guiding assumption that these were activities to be undertaken by young people roughly 18 to 25 year of age in projects funded and administered by government on a fulltime basis during a period spent away from civilian life.

The new national service is based on a different set of assumptions. Young participants represent a wider range of ages and come from diverse backgrounds. Some are serving full-time, others parttime. There are many successful program models, organized by different kinds of institutions and supported by different funding sources, public and private. The operations are decentralized, and the leadership is primarily nongovernmental. The next steps forward must build on this foundation.

The president needs to help lay out strategies that persuade corporations, foundations, state and local governments and individuals to at least match the federal government's outlays in direct support of a national service initiative of their choice. The process is already underway; it only needs to be accelerated. Private foundations such as Ford, Kellogg, DeWitt Wallace-Reader's Digest, MacArthur, AT&T, Bonner Foundation, Reebok and others are already large investors in national service. So are the state governments of Pennsylvania, California and Minnesota. In addition, the President's proposed National Service Trust Fund—post-service college scholarships for those who serve—could be doubled or tripled by private contributions. If every college and university in the nation engages in the process by establishing its own National Service Trust Funds to augment the federal scholarships, many more young people will be able to gain educational assistance through joining service programs.

The President will have an opportunity to pioneer a set of innovative federal investment strategies for building the new national service, rather than creating a government monopoly. They should include:

A federalism strategy of investing on a competitive basis in state plans. This approach is already underway on a modest scale through the Commission on National and Community service, up this year for reauthorization. The commission should be continued, but it is essential that this not be the only investment strategy, because this would place all leadership and direction in the hands of government agencies.

A franchise strategy of investing in generic youth service models developed and tested by entrepreneurs. The goal would be to replicate them nationally.

A hub strategy of investing large block grants in national and regional nonprofits with important zones of expertise and excellence, which are essential for improving and ensuring the quality of the new national service. These areas include evaluation research, leadership development, strategic planning and management, replication, communications and promotion, and technical assistance. The Clinton administration should take the step of farming out venture capital to the non-governmental leadership that organized and led the movement before government became a partner.

Other investment strategies are feasible, but the key is to build the new national service with much broader ownership, diversity and innovation. President Clinton deserves great credit for moving ahead so boldly, but he should not be expected to carry the entire responsibility for building national service.

This is the chance of a lifetime to give a great many young people more active and positive roles in our society. Now is the time for all of the country's major institutions to join in creating the new national service.

[From the Washington Post, May 10, 1992]

CAN A NEW "ARMY" SAVE OUR CITIES?

(By Arthur Ashe)

Once again, seething, residual anger has burst forth in an American city. And the riots that over-took Los Angeles 10 days ago were a reminder of what knowledgeable observers have been saying for a quarter-century: America will continue paying a high price in civil and ethnic unrest unless the nation commits itself to programs that help the urban poor lead productive and respectable lives.

Once again, a proven program is worth pondering: national service.

Somewhat akin to the military training that generations of American males received in the armed forces, a 1990s version would prepare thousands of unemployable and undereducated young adults for quality lives in our increasingly global and technology-driven economy. National service opportunities would be available to any who needed it and, make no mistake, the problems are now so structural, so intractable, that any solution will require massive federal intervention.

In his much-quoted book, "The Truly Disadvantaged," sociologist William Julius Wilson wrote that "only a major program of economic reform" will prevent the riot-prone urban underclass from being permanently locked out of American economic life. Today, we simply have no choice. The enemy within and among our separate ethnic selves is as daunting as any foreign foe.

Families rent apart by welfare dependency, job discrimination and intense feelings of alienation have produced minority teenagers with very little self-discipline and little faith that good grades and the American work ethic will pay off. A military-like environment for them with practical domestic objectives could produce startling results.

Military service has been the most successful career training program we've ever known, the American children born in the years since the all-volunteer Army was instituted make up a large proportion of this targeted group. But this opportunity may disappear forever if too many of our military bases are summarily closed and converted or sold to the private sector. The facilities, manpower, traditions, and capacity are already in place.

Don't dismantle it; rechannel it.

Discipline is a cornerstone of any responsible citizen's life. I was taught it by my father, who was a policeman. Many of the rioters have never had any at all. As an athlete and former Army officer, I known that discipline can be learned. More importantly, it must be learned or it doesn't take hold.

A precedent for this approach was the Civilian Conservation Corps that worked so well during the Great Depression. My father enlisted in the CCC as a young man with an elementary school education and he learned invaluable skills that served him well throughout his life. The key was that a job was waiting for him when he finished. The certainty of that first entry-level position is essential if severely alienated young minority men and women are to keep the faith.

We all know these are difficult times for the public sector, but here's a chance to add energetic and able manpower to America's workforce. They could be prepared for the world of work or college—an offer similar to that made to returning GIs after World War II. It would be a chance for 16- to 21-year-olds to live among other cultures, religions, races and different geographical areas. And these young people could be taught to rally around common goals and friendships that evolve out of pride in one's squad, platoon, company, battalion—or commander.

We saw such images during the Persian Gulf War and during the NCAA Final Four basketball games. In military life and competitive sports, this camaraderie doesn't just happen; it is taught and learned in an atmosphere of discipline and earned mutual respect for each other's capabilities.

Ethnic hatred, like that portrayed in Los Angeles, is also taught and learned.

A national service program would also help overcome two damaging perceptions held by America's disaffected youth: that society just doesn't care about minority youngsters and that one's personal best efforts will not be rewarded in our discriminatory job market. Harvard professor Robert Reich has opined that urban social ills are so pervasive that the upper 20 percent of Americans—that "fortunate fifth" as he calls them—have decided quietly to "secede" from the bottom four-fifths, and the lowest fifth in particular. We cannot countenance such estrangement on a permanent basis. And what better way to answer skeptics from any group than by certifying the technical skills of graduates from a national service training program?

Now, we must act decisively to forestall future urban unrest. Republicans must put aside their aversion to funding programs aimed at certain cultural groups. Democrats must forget labels and nomenclature and recognize that a geographically isolated subgroup of Americans—their children in particular—need systematic and substantive assistance for at least another 20 years.

The ethnic taproots of minority Americans are deeply buried in a soil of faith and fealty to traditional values. With its accent on discipline, teamwork, conflict resolution, personal responsibility and marketable skills development, national service can provide both the training and that vital first job that will reconnect these Americans to the rest of us. Let's do it now before the fire next time.

[From the Washington Post, May 11, 1993]

PERCHANCE, THE "US" DECADE?

(By Mary McGrory)

The best of Bill Clinton has gone up to Capitol Hill. It's his idealistic but shrewd proposals for "national service" and student loan reform. Between them, they bring back memories of the Peace Corps and the GI Bill. The national service program will certify the suspicion that U.S. youth has ditched the cynicism and greed of the '80s and has gone back to the shameless caring of the Kennedy years.

Clinton doesn't ask for the self-sacrifice that was required of the Peace Corps. Volunteers got stipends and the satisfaction of doing good. But in this peace Corps-come-home experiment, in addition to a minimum wage stipend ($4.25 an hour) participants get a subsidy for their college or training school education—$5,000 a year.

If successful, it could demonstrate a new Democratic philosophy, giving people to problems rather than money. Rich and poor alike between the ages of 17 and 25 are eligible: all they need is a willingness to pitch in and tutor ghetto children, clean parks, rehabilitate schools—and maybe save our cities.

Almost imperceptibly, the student who lived only to storm Wall Street has been fading from the American campus. The young are no longer unwilling to identify with losers. Lately, colleges have organized altruistic enterprises like fasts to show solidarity with Haiti. They send out their students to help poor children with homework, serve in soup kitchens, sit with the old, shelter the homeless and in general acknowledge that we are all in this together.

In some states and cities, students are required to do community service.

One of the more imaginative projects is being carried on at Georgetown Law School. Volunteers run the D.C. Family Literacy Project. Students travel to Lorton Reformatory, carrying such childhood classics as "Goodnight, Moon" and "Black Beauty." They teach the inmates how to read these books to their children. They coach them in diction and dramatic presentation and conduct seminars in child development. On visiting day, the incarcerated parents put on shows for their families. They did a dramatization of "The Three Bears."

Whenever he spoke of national service in the campaign, Clinton got his biggest response. After he formally announced the program at Rutgers. University on March 1, the national sevice office got 6,000 letters from young people who were just waiting to be asked. One recent Villanova graduate declared a willingness to give up a well-paid accountant's job because "I want the business of my life to be helping others, not dollars and cents."

Last week, National Service Director Eli Segal, a lifelong exponent of participatory politics, a longtime friend of Clinton's and a highly successful Boston toy tycoon, announced the opening of a pilot program called "Summer of Service." It's strikingly modest. In 11 cities, 1,000 volunteers will work in enterprises already well established in their communities.

Four-hundred-fifty cities and towns applied. Washington did not make the cut, but Boston did.

Its well-known "City Year" got a grant of $313,000 to expand its activities. City Year volunteers wear uniforms and do calisthenics every morning before plunging into their work. They clean parks and vacant lots—erstwhile drug-dealers' offices, which they have turned into playgrounds or urban gardens. This summer, they will keep open an inner-city elementary school. They will have summer camp, tutoring, crafts. Children will go on day trips to the aquarium, the airport and other points of interest.

The lucky thing about Summer of Service is that the money—$10 million—was appropriated last year. No one can quarrel with the idea of national service. The one difficulty anticipated on Capitol Hill involves the change in student loans. Previously, banks made government-guaranteed loans. Now Uncle Sam will make direct loans to students, who will pay back on an income-related scale. Republicans would prefer to keep the banks in the picture, but they can't deny that money will be saved. Enforcement will be transferred to the Internal Revenue Service. The current student loan default rate is a scandalous $3 billion a year. By 1997, the Corporation for National Service should have 150,000 young people on its rolls. The only rational complaint that could be made about the whole thing is that it isn't big enough.

Eli Segal promises there will be no bureaucracy, no boondoggles.

"This is about excellence," he says.

National service could give Bill Clinton a much-needed success.

[From the Washington Post, Mar. 13, 1993]

CLINTON'S CALL TO SERVICE

(By Colman McCarthy)

No speech in the Clinton campaign was more inspirational than the candidate's remarks at the University of Notre Dame last September. As president, Clinton didn't match it until his March 1 speech at Rutgers University. At both campuses, he issued calls for national service for college students.

At Notre Dame: "If we are truly to practice what we preach, Americans of every faith and viewpoint should come together to promote the common good." It was similar at Rutgers: "National service is nothing less than the American way to change America."

Clinton's effort to rally the young to altruism has created a debate that pits idealism against realism, as if the two are forever locked in conflict. Where's the money, ask realists, for the tuition-for-service program that Clinton is proposing: $389 million in scholarships for 25,000 students the first year and $3.4 billion for 100,000 by 1997. Realists say that Clinton's sweet talk ignores sour facts: There's no money for a new social program.

From that negative, despairing argument, Clinton is supposed to get the message: Don't even try. That means don't lead, just preside. The past 12 years witnessed two presiders in the White House. Most first-year college students today were in kindergarten when Ronald Reagan was elected and in fourth grade when reelected. They came into adolescence under a politician who tried nothing by way of linking government with national service. Instead of selflessness to others, he extolled self-enrichment.

Evidence suggests that the young weren't seduced either by Reagan's message of contempt for government or his disdain for altruism. The 1980s saw a surge in campus community-service programs, such as the ones Clinton praised at Notre Dame and Rutgers. Amnesty International chapters increased on campuses, as did those of Oxfam USA. Applications to Peace Corps remained high, as they did for such private domestic programs as the Jesuit Volunteer Corps and the Lutheran Volunteer Corps.

Yet Clinton's philosophy of service represents intellectual newness to many in high school and college. John F. Kennedy's appeals to national service are seen as historical relics, known from books but not live on MTV as are Clinton's. It wasn't a politician's celebrityhood that created support for the president at Notre Dame and Rutgers. Students saw in him someone with a positive message—put community interest above self-interest—that many professors and counselors at their schools had been exposing them to all along: If you can't teach the illiterate, comfort the sick and handicapped, or mend whatever and whoever is broken during your college years, you're receiving a limited education.

Clinton deserves to be honored for taking a risk that he'll be able to raise the money for his program of national service. Critics in Congress with no greater agenda than carping about ideas they were too dull-witted or timid to propose themselves now lie in wait for the president when he comes in with specifics. They will say Clinton's ideas are dangerous because they are romantic and utopian, a charge that ignores the thought of James Madison in 1788: "No theoretical checks—no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea."

Some critics charge that Clinton is into bribery: tuition money for service. While the details are being worked out on how much money for what service, who complains that the U.S. Army entices recruits with as much as $20,000 toward a college education. Why isn't it bribery when ROTC programs pay students to shine their boots occasionally and take gut courses in military lore. Nor is much alarm expressed over the most lavish enticement of all: a free ride at the military academies in exchange for a few years in uniform after graduation.

Clinton's Rutgers speech marked the 32nd anniversary of the Peace Corps. Kennedy's spirited message was repeated by Clinton: "Answer the call to service." In "The Bold Experiment," a history of the Peace Corps by Gerard Rice, one of those who responded to Kennedy's call explained why: "I'd never done anything political, patriotic or unselfish because nobody ever asked me to. Kennedy asked."

So has Clinton.

WHY SO CYNICAL ON NATIONAL SERVICE?

(By Joshua Civin)

"Altruistic government programs like national service are too often feel-good programs. They rarely work," said a jaded Washington staffer in a tone that bordered on patronizing. I nodded politely as a 19-year-old novice should in response to a seasoned politico's wisdom.

I have been avidly following the developing national-service debate. I applauded President Clinton's speeches advocating "a revival of America's commitment to community." Here, I thought, was a chance for our generation to demonstrate that its attention span could be held by something more profound than MTV or Tetris. Here was a program that considered our skills as productive resources rather than as markets for an endless stream of gadgets.

My initial optimism began to deteriorate as countless critics deconstructed national service into Swiss cheese. It was happening again. My would-be mentor argued that a national service program would be too expensive.

"When we are having such difficulty cutting the deficit, the last thing we need is a huge expensive new program. Only a certain segment of society," he continued, "needs national service—youth from families whose incomes are below a certain level." And then he concluded decisively, "National service smells like all other attempts at idealistic government intervention. It will fail."

These criticisms have force. Faced with them, I felt the distinct temptation to forget about helping anyone but myself—to withdraw into cynicism and materialism. But nagging questions still perplexed me. What justified this Senate staffer's contempt of my youthful idealism? Why were he and all the other enlightened ones determined to doom any national-service initiative to governmental gridlock?

National service, as I understand it, is a program to re-instill an ethic of citizenship in our entire generation. The critics are products of older generations, especially our parents' generation, the baby boomers. Although history, as Thucydides reminds us, reveals what past patterns are applicable to the future, our generation need not cede the national-service debate to our elders. Even our elders who have been friendly to national service, from Peace Corps veterans to experienced community activists, have little more regard than the cynical Senate staffer for the views of young people—a funny thing when you remember that we are the constituents of any potential national-service program.

Our generation has not yet seen its heroes mowed down and desanctified. After the deaths of Martin Luther King and the Kennedys, the tragedy of Vietnam, the betrayal of Watergate, hippies found cynicism and became yuppies. But jaded elders should not deny us our idealism. We want something to believe in. It is at your peril—you, our elders—that you turn away us, our nation's young people.

Potentially more devastating than the budget deficit is our social deficit. The neglected agenda of race and poverty, of community and children, of leadership and integrity threatens our country's future. If national service is too expensive, how expensive is leaving us out on the streets poorly educated, poorly trained and largely apathetic? Far cheaper to finance national service programs than to build and maintain more prisons. As in medicine, prevention is less costly than treating the symptoms of generational abuse.

You must give us, the future generations, the skills, the resources and the desire to combat our society's systemic problems as well as our budget deficit. In fact, it is in your best interest to prevent us from continuing in the self-centered, couch-potato mentalities that the media ascribes to our generation. The nation is graying and it is we, the Generation X, who will nurse the baby boomers, yuppies and post-hippies into old age.

We young people are yearning to accept and fulfill our societal responsibilities. Already, our idealism has yielded fruit in such youth-conceived and youth-led programs as City Year and Teach for America, spawning social entrepreneurs to address critical unmet needs. In Washington, if young people from Public Allies serve at non-profit organizations and agencies, while about 100 young people from neighborhoods such as Anacostia, Adams-Morgan, and Bethesda come together as members of D.C. Service Corps to teach children, paint playgrounds and provide comfort to the elderly.

We young people cannot change the world alone. Government, the private sector, all ages, races and religions must match our initiative. Young people have much to learn from many experienced veterans but the price of our open-mindedness is your support and appreciation. Programs like Pennserve and Volunteer Maryland contain the potential to ripple through our entire generation.

These thoughts raced through my head as I listened to the pedantic Senate staffer, but I only showed a timid nod of the head. National Service can work both ways. Correctly conceived, properly funded, filled with a diversity of participants, it can empower young people, serving as a Peace Corps for our generation. Or, as all you former hippies know . . . it is not a giant leap from submissive nodding to disgruntled cynicism.

[From the New York Times, May 5, 1993]

SLOW BUT SURE ON NATIONAL SERVICE

President Clinton promised voters "a domestic G.I. Bill that will pledge college assistance to any student who wants it." But the national service plan he recently announced falls short of that lofty goal. Only a handful of students will participate, and they will receive a fraction of what it takes to attend private colleges.

Some are urging the President to move faster. But in the current political vortex faster is probably wrong. Mr. Clinton is already trying to ram three major bills—the

budget, health care reform and the Mexican trade pact—through Congress this summer. Moreover, Congress needs his strong leadership to strengthen and pass the campaign finance legislation expected to be unveiled later this week. To add an ambitious national service plan to the Congressional agenda risks overload—and grid-lock.

So Mr. Clinton has decided to start national service off slowly. That's acceptable, as long as he honors his campaign promises by accelerating the plan next year.

The Clinton plan would open college gates to more students through national service and a restructured student loan program. High school graduates who volunteer for a year or two of community service would, besides earning the minimum wage, receive awards of up to $10,000 toward post-secondary education or training.

The award isn't large enough to pay for four years at private colleges. And the program would initially accommodate only 25,000 students—a tiny fraction of the eligible population. But a slow pace many prove wise.

Mr. Clinton's vision is grand: young Americans advancing themselves as they combat illiteracy, aid the homeless or rehabilitate housing. But if it is rushed, the program could degenerate into a government bureaucracy handing out useless jobs that wouldn't be filled by anyone other than volunteers.

The President also proposes to open college to students who don't volunteer for community service by providing affordable student loans. The current loan program is a complex myriad of options under which commercial banks extend loans with the backing of Federal guarantees and subsidies.

Mr. Clinton's would simplify the process by having the Government directly lend to students, thereby cutting out the banks and saving money. The plan would also give students the option to tie repayment to their future income—thereby eliminating the fear of bankruptcy for those who enter low-paid occupations. Whether the plan would work smoothly depends on details that have yet to be provided.

President Clinton's student loan program would be simpler than the current program. But it may not be cheaper. The money saved by eliminating bank profits could easily be swallowed up by bloated bureaucracy and less vigilant collection from deadbeats. And there are ways to cut out fat from the existing program—by reducing the subsidies paid to the banks and forcing them to bear more of the risk from student defaults.

What's odd is Mr. Clinton's decision to revamp the system even before the results of a pilot project of direct lending is studied. Surely it would make sense to see how the program works on a small scale before launching it nationwide.

The President's vision draws on the inspiring model of the G.I. Bill of Rights, which put millions of World War II veterans into college classrooms and made them the best educated, and most productive, workers America has ever had. His plan isn't up to that standard—yet. But Mr. Clinton is on to something important—an idea that is fully consistent with his campaign pledge to fashion government programs that help the needy only in exchange for performance. This worthy endeavor need not be rushed.

[From USA Today, May 3, 1993]

GIVE NATIONAL SERVICE A TRY

The national service plan offers a way for young people to meet their goals while filling the nation's needs.

President Clinton has a plan to create opportunity while teaching responsibility. At $3 billion a year—a buck a month for each American—it's too good an idea not to give a try.

The plan is national service. It is part of Clinton's proposal—unveiled Friday—to make college more affordable. Here's what the dollar a month would pay for in 1997:

150,000 young people working on jobs communities need done. They'd build homes for the homeless, teach preschool youngsters, care for the infirm and elderly, and help the police.

Participants would earn the minimum wage and get credits of up to $10,000 over two years to use for college or pay off old student loans.

Rewarding service with education has given the country a boost before. Millions of veterans after World War II took advantage of the GI Bill. And they spurred the nation's phenomenal growth in the '50s and '60s.

Today, with the military shrinking, Clinton's service plan offers another means for young people to meet their goals while filling national needs.

Tough questions, though, remain about how the plan will work:

Will needy youngsters benefit from the program? If they don't money might better be spent on direct grants to them.

Will the jobs meet real needs, yet not deprive full-time employees of work? The aim is to do work not being done now, not replace permanent employees.

Will running the program be costly? Clinton plans to combine existing federal volunteer agencies into a Corporation for National Service, so administration should be cheap. But if it isn't, national service won't provide enough educational and service bang for the buck.

Clinton plans to phase in the program slowly—25,000 jobs in 1994, growing to 150,000 in 1997. That offers time to answer those concerns.

For now, a buck a month for national service looks like a great buy.

NATIONAL AND COMMUNITY SERVICE COALITION MEMBERSHIP LIST

AARP.
Advocacy Institute.
AFSCME.
Agudath Israel of America.
Alliance For Justice.
American Alliance for Rights and Responsibilities.
American Federation of Teachers.
American Jewish Committee.
American Red Cross National Headquarters.
American Youth Foundation.
American Youth Policy Forum.
Americans For Democratic Action.
Arkansas Division of Volunteerism National Assembly of State Offices of Volunteerism.
Association for Volunteer Administration.
Association of Junior Leagues International B'Nai B'Rith International.
Big Brothers/Big Sisters of America.
Boston University Community Service Center.
Brescia College.
California State Department of Education.
Camp Fire.
Campus Compact Center for Community Colleges.
Campus Green Vote.
Campus SERVE.
Child Welfare League of America.
Children's Defense Fund.
City Cares of America.
City of Omaha.
City Volunteer Corps.
City Year.
Close Up Foundation.
College Democrats of America.
Colorado Boys Ranch.
Community Concepts.
Community Renewal Team of Greater Hartford.
Community Service Learning Center.
Community Services, Inc.
Connecticut Department of Higher Education.
Constitutional Rights Foundation.
COOL.
Council of Chief State School Officers.
Council of Jewish Federations.
DC Service Corps.
East Bay Conservation Corps.
Florida Conservation Corps.
Generations United.
Georgia Peach Corps.
Girl Scouts of the USA.
Graham-Windham Services to Families & Children.
Green Corps.
International Liaison of Lay Volunteers in Mission.
Kansas City Consensus.
Louisville Youth Alliance.
MA Office of Community Education.
Magic Me.
Maryland Student Service Alliance.
Massachusetts Youth Service Alliance.
Maumee Valley Girl Scout Council.
Michigan Commission on Community Service.
Milwaukee Community Service Corps.
National Assn. of State Universities and Land Grant Colleges.
National Assn. of State Universities and Land Grant Colleges.
National Association for Public Interest Law.
National Association of Foster Grandparent Program Directors.
National Association of Partners in Education.
National Association of RSVP Directors Audubon Area RSVP.
National Association of Senior Companion Project Directors.
National Association of Service and Conservation Corps.
National Associations of Foster Grandparent Program Directors, Senior Companion.
National Center for Service Learning in Early Adolescence.
National Collaboration for Youth.
National Committee to Preserve Social Security and Medicare.
National Council on Aging.
National Crime Prevention Council.
National Society for Experiential Education.
National Youth Leadership Council.
Newsweek.
Ohio Campus Compact.
Ohio Governor's Community Advisory Committee.
Operation Civic Serve.
Palmetto Project Youth Service South Carolina.
Partnerships For Families.
PennServe.
Pennsylvania Campus Compact.
Pennsylvania Conservation Corps.
People For The American Way Action Fund.
Points of Light Foundation.
Project Service Leadership.
Public Allies.

Public Interest Clearinghouse.
Public/Private Ventures.
R.I. Department of Elementary and Secondary Education.
Resource Service Ministries, Inc.
SCALEUNC—Chapel Hill.
Society for Nonprofit Organizations.
St. Lukes Community Services.
Teach for America.
Temple University.
Thomas Jefferson Forum.
U.S. Conference of mayors.
U.S. Public Interest Research Group.
United Methodist Church General Board of Church and Society.
United States Catholic Conference.
United States Student Association.
United Way of America Young America Cares!
Virginia COOL.
Virginia Office of Volunteerism.
Volunteer Maryland.
West Towns Visiting Nursing Services.
Wisconsin Community Action Program Association.
Women in Community Service.
YMCA of the USA.
Young People For National Service.
Youth Service America.
Youth Service California (YSCal) c/o Haas Center for Public Service.
Youth Volunteer Corps of America.
YouthBuild Boston.
YouthBuild USA.

YPFNS SUPPORTS S. 919, THE NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993

Young People for National Service ("YPFNS") is a grassroots, youth-led organization working to mobilize and unite young people to foster an effective system of national service. More than one thousand YPFNS members from across the United States strongly support the National and Community Service Trust Act of 1993, S. 919, as reported by the Labor and Human Resources Committee.

By building a national "service ethic," the national service program will provide vital opportunities for many Americans to work through a wide range of organizations to address pressing educational, environmental and human needs throughout the United States.

National service is not volunteerism. Service is a way by which participants systematically work full time or part time toward solving problems in society. Service provides an opportunity for participants to give something back to their communities in a manner that develops a lasting sense of responsibility for fellow citizens and the nation as a whole. There will clearly continue to be demand for volunteers in meeting social needs. S. 919 recognizes, however, that all people are not equally able to volunteer, and seeks to provide opportunities for diverse groups to participate in meeting community needs.

The national service initiative will establish effective state and local collaborations among all segments of society, including youth, community and national non-profit organizations and the business community. Working together, these partnerships will develop and implement strategic and innovative plans to use service as a means to meet locally-defined community needs.

YPFNS opposes any substitute amendment modeled on the provisions of S. 1212, or other amendments to S. 919 that will limit the diversity of the program and undermine the basic principles of the national service initiative.

Adequate post service educational awards are vital to assuring access to service opportunities for diverse populations throughout the country. The presence of these awards, however, does not turn the national service legislation into an education program. National service is designed to meet serious social needs in the community through programs that also provide educational assistance. Increasing student aid funding, while a worthwhile objective in itself, will not provide those benefits associated with public service. Reform of the educational financing system should be addressed separately.

Diverse organizations—including public interest groups, which provide important access to services in areas such as child abuse, drug addiction, mental health and other critical human needs—should be entitled to compete for participation in the national service program, with selection of participants based on the merits of the service proposed.

YPFNS opposes means testing requirements or other earmarking of service opportunities for particular individuals, which would limit diversity and undermine the effort to create a national service ethic in all Americans. Specific outreach to recruit and include disadvantaged youth, and to support development of programs to provide services in low-income areas and programs to recruit members of low-income communities as participants, should be emphasized.

Let us lend a hand—pass S. 919.

COLLEGE AND UNIVERSITY PRESIDENTS WHO SUPPORT S. 919

Melvin L. Vulgamore, President, Albion College, Albion, MI.
Carol A. Cartwright, President, Kent State University, Kent, OH.
Michael Mooney, President, Lewis & Clark College, Portland, OR.
David Mertes, Chancellor, California Community Colleges, Sacramento, CA.
Peter Likins, President, Lehigh University, Bethlehem, PA.
Nils Hasselmo, President, University of Minnesota, Minneapolis, MN.
John D. Welty, President, California State University, Fresno, CA.
William P. Gerberding, President, University of Washington, Seattle, WA.
Neil Bucklew, President, West Virginia University, Morgantown, WV.
Peter R. Pouncey, President, Amherst College, Amherst, MA.
Arthur DeCabooter, President, Scottsdale Community College, Scottsdale, AZ.
Dale W. Lick, President, Florida State University Tallahassee, FL.
James J. Duderstadt, President, University of Michigan, Ann Arbor, MI.
Tom Gerety, President, Trinity College, Hartford, CT.
Brice W. Harris, President, Fresno City College, Fresno, CA.
Richard A. Jones, Interim President, De Anza College, Cupertino, CA.
Robert C. Detweiler, President, California State University, Dominguez Hills, CA.
William M. Chace, President, Wesleyan University, Middleton, CT.
Donald W. Zacharias, President, Mississippi State University, Mississippi State, MS.
David P. Roselle, President, University of Delaware, Newark, DE.
Charles A. McCallum, President, University of Alabama at Birmingham, AL.
Rev. Dennis Dease, President, University of St. Thomas, St. Paul, MN.
Author Hughes, President, University of San Diego, San Diego, CA.
John Kerbs, President, Union College, Lincoln, NE.
John M. Kingsmore, Pres., Community College of Allegheny County, Pittsburgh, PA.
Sister Jeanne O'Laughlin, O.P., Barry University, Miami Shores, FL.
Gordon A. Haaland, President, Gettysburg College, Gettysburg, PA.
John P. Schlegel, S.J., President, University of San Francisco, CA.
Richard Wood, President, Earlham College, Richmond, IN.
Mary L. Smith, President, Kentucky State University, Frankfort, KY.
James A. Hefner, President, Tennessee State University, TN.
Richard D. Breslin, Ph.D., President, Drexel University, Philadelphia, PA.
Judith E. N. Albino, President, University of Colorado at Boulder, CO.
Orville Kean, President, University of the Virgin Islands, U.S. Virgin Islands.
Arthur Smith, President, University of Utah, Salt Lake City, UT.
Dolores Cross, President, Chicago State University, Chicago, IL.
Robert L. Carothers, President, University of Rhode Island, Kingston, RI.
Alice Stone Ilchman, President, Sarah Lawrence College, Bronxville, NY.
Michael Hooker, President, University of Massachusetts System, Boston, MA.
James M. Brown, Chancellor, Southern Illinois University, Carbondale, IL.
Francis J. Mertz, President, Fairleigh Dickinson College, Madison, NJ.
Michele Tolela Myers, President, Denison University, Granville, OH.
Claire Gaudiani, President, Connecticut College, New London, CT.
Thomas Wallace, President, Illinois State University, Normal, Il.
Robert Rothberg, President, Lafayette College, Easton, PA.
William H. Cunningham, Chancellor, University of Texas System, Austin, TX.
Neil Rudenstine, President, Harvard University, Cambridge, MA.
Blenda J. Wilson, President, California State University-Northridge, CA.
Harry J. Hartley, President, University of Connecticut, Storrs, CT.
Joel Cunningham, President, Susquehanna University, Selinsgrove, PA.
G. M. Dennison, President, University of Montana, Missoula, MT.
Maxwell C. King, President, Brevard Community College, Cocoa, FL.
Dennis M. Mayer, President, Colorado Mountain College, Glenwood Springs, CO.
Chang-Lin Tien, Chancellor, University of California at Berkeley, CA.
Frederick E. Hutchinson, President, University of Maine, Orono, ME.
Kathryn Mohrman, President, Colorado College, Colorado Springs, CO.
Mary L. Smith, President, Kentucky State University, Frankfort, KY.
Paul E. Elsner, President, Maricopa Community Colleges, Temple, AZ.
Gary A. Thibodeau, Chancellor, University of Wisconsin-River Falls, WI.
Martha E. Church, President, Hood College, Frederick, MD.
Harry E. Smith, President, Austin College, Sherman, TX.
Charles Vest, President, Massachusetts Institute of Technology, Cambridge, MA.
Harry Ausprich, President, Bloomsburg University, Bloomsburg, PA.
Colman O'Connell, President, College of St. Benedict, St. Joseph, MN.
Gen. Julius Becton, President, Prairie View A&M University, Prairie View, TX.
Vartan Gregorian, President, Brown University, Providence, RI.

Richard Pattenaude, President, University of Southern Maine, Portland, ME.

Leroy Keith, President, Morehouse, Atlanta, GA.

Rev. Christian Oravec, T.O.R., President, St. Francis College, Loretto, PA.

Herman D. Lujan, President, University of Northern Colorado, Greeley, CO.

Lawrence Pettit, President, University of Indiana, Indiana, PA.

Gregory Prince, President, Hampshire College, Amherst, MA.

Kendall L. Baker, President, University of North Dakota, Grand Forks, ND.

Joel N. Jones, President, Fort Lewis College, Durango, CO.

Sr. Colman O'Connell, President, College of St. Benedict, St. Joseph, MN.

William Shield, President, Rockford College, Rockford, IL.

Freeman Hrabowski III, President, University of Maryland/Baltimore County, MD.

Charles Reed, Chancellor, State University System of Florida, FL.

Thomas McFadden, President, Marymount College, Ranchos Palos, CA.

Byron McClenney, President, Community College of Denver, Denver, CO.

Herman Lujan, President, University of Northern Colorado, CO.

Johnnetta B. Cole, President, Spelman College, Atlanta, GA.

R. Paul Nelson, President, Aquinas College, Grand Rapids, MI.

Patrick McDonough, President, Marietta College, Marietta, OH.

John Van de Wetering, President, State University of New York, Brockport, NY.

Agnar Pytte, President, Case Western Reserve University, Cleveland, OH.

William Hogan, Chancellor, University of Massachusetts at Lowell, MA.

Richard R. Rush, President, Mankato State University, Mankato, MN.

Larry Carter, President, Community College of Aurora, Aurora, CO.

Evan F. Dobelle, Chancellor, San Francisco City College, CA.

Dietrich Reinhart, O.S.B., President, St. John's University, Collegeville, MN.

Thomas A. Bartlett, Chancellor, Oregon State System of Higher Education, Eugene, OR.

Dale Rogers Marshall, President, Wheaton College, Norton, MA.

George Rupp, President, Columbia University, New York, NY.

Eamon Kelly, President, Tulane University, New Orleans, LA.

HIGHLIGHTS OF REPUBLICAN STATEMENTS FOR AND AGAINST H.R. 2010

REPUBLICANS SPEAKING IN FAVOR OF H.R. 2010

Representative Gunderson: This legislation requires an annual appropriation; it is not a big new entitlement. "National Service is not student financial aid, [and it] is not paid voluntarism. National Service is a public partnership from the Federal, State, and local level to meet a unique and urgent local or national need * * *"

Representative Hoekstra: H.R. 2010 will not replace existing programs but enhance them. It will also allow a diverse group of people "to work on some of the most pressing needs facing their local communities."

Representative Morella: The Community Year Program established in Montgomery County, MD, is a working model of the H.R. 2010 plan. Program participants receive a $5,000 award, and people from diverse background work together on community projects.

Representative Gilman: H.R. 2010 provides a good opportunity for students to reduce their debt load and improve communities. "[Y]oung Americans will have the chance to advance themselves as they tackle many of our Nation's ills. I strongly believe that our Nation's youth possess the knowledge and energy to work on projects that will combat illiteracy, aid the homeless, and revitalize our neighborhoods."

Representative Horn: This bipartisan plan "address[es] unmet educational, environmental, human, or public safety needs * * * Our states, cities, and neighborhoods are suffering from the breakdown of the family structure, the culture of gangs and drugs, and a recession which has affected all of us. This program takes a positive step toward using the resources of students for the betterment of our communities."

Representative Upton: H.R. 2010 is a "constructive alternative" to the rising cost education. "[It] is an effective means to coordinate and expand service programs and opportunities throughout the Nation. It is a program full of diversity and challenge."

Representative Lazio: Service programs receiving grants in the H.R. 2010 plan "will not have an entitlement to funding." Instead, applicants will compete on the basis of merit. "We cannot underestimate the amount of hope that is inherent in this bill. I believe it has the potential to provide successive generations of Americans with a richer quality of life by providing better access to educational benefits and exceptional experience that will allow them to better contribute to a better America."

Representative Torkildsen: Community service has always been the key to American greatness. "Much of what is right with this country has little to do with Government at all. If we can encourage just a few young people to look to themselves to help their communities, and not look to the Government to solve every problem they face, then we will have indeed accomplished something significant."

Representative Shays: H.R. 2010 is not an entitlement program, but an authorization bill which will be followed by an appropriation specifying funding requirements. This bill is decentralized and, as such addresses the concerns of Republicans. "I think with all my heart and soul that this program is going to lift up our Nation in a way that many of us here may not fully understand."

Representative Machtley: "The bill represents a compromise in the truest sense * * * The members of the committee should be commended for making this bill relatively conflict-free * * * The National Service Program reinforces the bipartisan belief in personal responsibility—and not Government handouts."

REPUBLICANS SPEAKING AGAINST H.R. 2010

Representative Michel: H.R. 2010 is a costly program that is not compatible with the spirit of community service. "What we get in the end is another big Government program in which Big Daddy creates a system of rewards * * * Government-run community voluntarism is a contradiction in terms."

Representative Ballenger: H.R. 2010 is "a new welfare program" that will require taxpayers to support "students working in * * * artificially created jobs." The legislation also contains a "blatant conflict-of-interest provision involving labor unions." Unions will not only be allowed to apply for grants themselves, but will have the power to approve certain non-union applications.

Representative Goodling: The bill fails to assist those who cannot afford an education since it does not mandate a means-test. In addition, the bill will compete with the G.I. Bill and, as a result, impact the ability of the Armed Forces to recruit new personnel. "[I]n its present, [H.R. 2010] would probably be one of the most immoral acts that this Congress has ever perpetrated upon the American people."

Representative Molinari: H.R. 2010 is an expensive new program which will only provide for a few of the individuals who will qualify. "[N]ational Service is . . . a goal that can be met without an exorbitant price tag. It is a goal that can be met without a salary and without several benefits."

Representative Barrett (NE): Government should work to reduce Federal spending instead of creating a "cadre of volunteer elite." "This bill is an assault on our existing national volunteer system, because it reaches into our local communities and federalizes the idea of voluntarism."

Representative Miller (FL): H.R. 2010 provides for an average cost of $20,000 per student, but only $5,000 is for education purposes. "[H.R. 2010] is not an education program nor is it about voluntarism. It is nothing more than an expensive, $3.4 billion program about paid service."

Representative Stump: "[H.R. 2010] has a superficial attractiveness which fades quickly upon closer examination." By placing the Corporation for National Service in the same appropriations subcommittee allocation as the VA, HUD, and the EPA, this plan may divert funds from these agencies. This bill will also impact the Armed Forces' ability to recruit and retain quality personnel.

Representative Bilirakis: This legislation will have a negative impact on Veterans' programs at a time when funding for such programs has already been reduced and will affect the ability of the military to attract quality recruits.

Representative Bartlett: H.R. 2010 is expensive legislation and it is subject to conflict-of-interest.

Representative Weldon: Instead of paying program participants, Government should give volunteer agencies the resources they need to expand and improve their programs. "[H.R. 2010] is a feel good, politically correct vote, but it is not going to foster community service."

Representative Boehner: H.R. 2010 is a new Entitlement Program that will cost the American taxpayer $7.4 billion. "[T]he National Service Trust Act is sexy. It looks good and it feels good. But that does not make it good legislation."

Representative Walker: This bill would create "25,000 new Federal employees, assigned politically across the country, all being paid subminimum wages." The money should be spent to reduce the deficit.

Representative Stearns: The stated goals of H.R. 2010 are already funded by the Labor, HHS and Education appropriation bill. "I find it really hard to believe that morale and patriotism [have] sunken to such a low, that our country requires a whole new massive Federal Spending program to entice our young to be productive members of our society."

Representative Bunning: H.R. 2010 is not national service but national patronage. It "does not just encourage people to volunteer, it pays them, too."

Representative Gingrich: H.R. 2010 can only be passed if a more expensive program is eliminated. "In many ways I like this bill * * * I do commend the effort, which I think is sincere."

Representative Solomon: "Here we go again * * * For years we have robbed the veterans hospitals and veterans programs in this country, and here we go again."

MORNING BUSINESS

Mr. WOFFORD. Mr. President, I now ask unanimous consent there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

THE GREATEST DANGER WE FACE

Mr. HATFIELD. Mr. President, one of the most prominent scholars of American political and social history in the United States, Dr. Daniel J. Boorstin, outlined recently his concern over the growing polarization among the people of this country. "We define ourselves today not as Americans but as members of subdivisions of America; we are Polish-Americans, Italian-Americans, African-Americans. People ask of us, what kind of American are you?"

Americans take great pride in our ethnic heritage and in the multicultural composition of this country. Dr. Boorstin cautions us, however, against the ethnic chauvinism which develops when our identification with our particular ethnic origin overshadows our connection to one another as citizens of the same country. While we derive great strength as a nation by acknowledging and appreciating the differences among our citizenry, we cannot afford to dwell on what divides us. We need only to look overseas to the former Yugoslavia to observe where this divisive thinking may lead us.

As Dr. Boorstin points out, even the most seemingly trivial, everyday happenings unite us as a nation. On any given day, millions of Americans across the country will wear the same brand of tennis shoes, will drink the same type of soft drink, will watch the same movie at their local theaters that evening. Dr. Boorstin asserts that our similar interests as consumers connect us subtly but substantially. While regional interests have always been important to citizens of this country, as Dr. Boorstin has pointed out in his many books on the shaping of American culture, the miracle of our Republic has been its ability to pull together the diverse interests of our citizens into a cohesive whole.

Today, many Americans are nervous because we are unsure about the continued progress of our Nation. It is unclear to us how our country will evolve in the upcoming years. Dr. Boorstin reminds us, however, that the evolution of our country has never been clearly apparent to its citizens. Since the fledgling days of the Republic, the shape and character of the United States have continued to be molded. It has been precisely this continuing evolution of our Nation which has invigorated Americans. New frontiers are always before us. The comments of Dr. Boorstin serve to remind us that our potential and our promise as a nation are rooted not in our isolated ethnic groups, but in our connection as citizens of the United States.

I would ask unanimous consent that an interview with Daniel J. Boorstin by Tad Szulc be included in the RECORD following my remarks.

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

[From Parade Magazine, July 25, 1993]

THE GREATEST DANGER WE FACE

"The menace to America today is in the emphasis on what separates us rather than on what brings us together—the separations of race, of religious dogma, of religious practice, of origins, of language."

The speaker is Daniel J. Boorstin, 78, a distinguished scholar who is the former Librarian of Congress and the author of 20 books on the history of American and world civilization. I wanted to know his thoughts about our nation's prospects as we approach the 21st century, with much of the world in turmoil and our own country still struggling with problems of intolerance and violence. In the quiet of his Washington, D.C., home, Boorstin—looking jaunty in his trademark bow tie—confides his greatest fears regarding the future of the United States.

"I'm wary of the emphasis on power rather than on a sense of community," he says passionately. "The separate groups in our country are concerned about their power—whether it be black power or white power, the power of any particular group.

"I think the notion of a hyphenated American is un-American. I believe there are only Americans. Polish-Americans, Italian-Americans or African-Americans are an emphasis that is not fertile.

"There has been so much emphasis recently on the diversity of our peoples," he continues. "I think it's time that we reaffirmed the fact that what has built our country is community and that community is not dependent on government. It's dependent on the willingness of people to build together."

The idea of community permeates Boorstin's thought. An unprecedented form of community-building, he says, is an essential part of "American Humanism"—our nation's greatest achievement. This humanism was built upon "several happy accidents," says Boorstin, starting with the arrival of people to a relatively unoccupied continent who were able to make a new life together, transcending the boundaries of European religion, race and tradition. At the same time, they established a new tradition that welcomed the stranger.

The positive attitude toward the stranger was helped, Boorstin insists, by the fact that, unlike much of the world, the U.S. never had a religious war or suffered a hostile invasion. This, he points out, we have regarded the newcomer immigrant "as a builder and not as an enemy." In addition, he says, "We don't have a dogmatic ideology, which is a prison, but, instead, the great institution of our Constitution."

American community-building, Boorstin notes, is in stark contrast "with the fanaticisms and miseries of much of the rest of the world . . . the terrors of ethnic cleansing in Europe, the horrors of tribal warfare in Africa and the oppressions of totalitarianism, which by no means has entirely disappeared."

"In the midst of that kind of world," he continues, leaning forward over the desk in his book-lined study to make his point, "community—an emphasis on what brings us together—is what I think is called for in our time. It's what built the American West: People coming by wagon trains, where they made their own systems of law and cooperated in going up and down the mountains and across the prairies to build new towns."

But community is more than people building towns and states. "Another kind of community is what I would call the consumption community," Boorstin says, "in the sense of being drawn to other people by consuming the same kinds of things. It may seem trivial, but it does give you a sense of relation to others: eating the same kind of food that other people eat, using the same kinds of automobiles. We're bound together in countless ways, large and small—not only by our Constitution and our patriotism but also by all the little things we eat and drink and wear and ride in."

Boorstin has long been fascinated by the "American experience," and it has been the central theme of his writing. His own life is an impressive American experience in itself, encompassing American values of determination, imagination and the seizing of opportunity. Many of Boorstin's most strongly held ideas and principles grew not only out of a lifetime of study but also from his own personal history, which has touched on many of the major themes and events of the century.

He was born in Atlanta in 1914, the son of a Russian immigrant who had quickly assimilated into American life and earned a law degree at the age of 18. I ask Boorstin why he thinks newcomers to America become so easily absorbed in alien surroundings.

"When people are at a great distance from their old burial grounds, it's harder for them to keep their old name and insist on respect because of their grandfather," he says. "When people move to new communities and new cemeteries, that makes it hard for them to insist on aristocratic and traditional dignities."

Immigration has always been an important feature of American Humanism, in Boorstin's opinion. "People often think, once they have got in, that we should close the door," he says, "but I think we should find ways to accommodate and provide opportunities for people from everywhere. That's the American tradition."

That leads him to another of his favorite topics—"another happy American accident"—the American language. When his grandfather arrived in the U.S., he spoke Yiddish, "but he came to speak English and did not lose any dignity in the course of it," Boorstin tells me. "One of the symbols of the opportunities of America is the fact that our language is a borrowed language and that the sign of being a new American is speaking broken English—perhaps the only thoroughly American language. It's the sign of being a newcomer and a learner from afar."

In contrast, he says, "On the border between France and Germany, people have killed each other over whether they should speak French or German." Among the good fortunes of the U.S. is that "the language was not created here, it was just transformed here." He adds, "If we had had a native American language, we might have been more chauvinistic about it. But we have an imported language along with a population of imported people."

What about the attempt to introduce bilingualism to American schools? "I am against imposing language uniformity by law, just as

I would not want to impose religious uniformity by law,' Boorstin says, though he adds, "Bilingual teaching tends to restrict opportunities for the very people who need the opportunity to enter the mainstream of American life."

As a small child, Boorstin experienced religious intolerance. His father, who earlier had served as private secretary to Georgia's Gov. John M. Slaton, was one of the attorneys for Leo Frank, a Jewish factory owner who was sentenced to death on fabricated evidence for the murder of a worker named Mary Phagan. (He was posthumously pardoned.) When Governor Slaton commuted the death sentence to life imprisonment, Frank was lynched by a mob near Marietta on Aug. 16, 1915.

"It was not particularly comfortable for Jews in Atlanta," Boorstin recalls. "My uncles had a little clothing store for men, and their windows were smashed. So they decided to leave and go West. The West was Oklahoma."

Boorstin's parents followed the rest of the family to Tulsa when Boorstin was barely 2. Growing up in that oil boomtown, he became aware of racial intolerance. "It was a very Western frontier town," he says, "and it was racially segregated. It was a center of the Ku Klux Klan. The Negro part of town was segregated, and Tulsa was the scene of one of the worst race riots in the 1920s—the Negro section of town was burned."

Today, Boorstin argues, we must put slavery and racism into a broader historical perspective. He emphasizes that while America's "only civil war" was fought partly to preserve the Union, it also was fought against slavery. "I think Americans continue to have a deep sense of guilt over the inheritance of the institution of slavery," he says. "But that guilt should not be embodied in our current institutions. We must give everybody a fresh start and not try to compensate for past injustices by creating present injustices."

"For us to try to crawl back into our roots would be a great mistake," he continues. "I think we should seize this opportunity of sharing a great tradition. That is why I'd be wary of attempts to create ethnic ghettos. It's an abomination. We must try to come together and learn to share what we are lucky enough to possess."

Any form of "ethnic chauvinism" makes Boorstin, normally a gentle man, quite angry. "I object to the belief that it is more important that we belong to some particular small group than to the human race," he says. "We're all Americans."

After graduating from public high school, Boorstin entered Harvard University at 15. There he acquired a love for the English language and found his vocation—history—when he read Edward Gibbon's 18th-century classic, The History of the Decline and Fall of the Roman Empire. Gibbon, says Boorstin, was his first idol, because the great author was, like himself, "an amateur."

"Gibbon never was properly trained as a historian," he explains. "He didn't need the money. There was no reason why he should write history . . . he just was inspired by that vision and loved it, which was the way I thought I'd like to try to write history."

Boorstin spent three years as a Rhodes scholar at Oxford, where he pursued his second love—the law—earning advanced degrees in both jurisprudence and civil law. Next, he obtained a doctorate in law at Yale. Soon after, he published his first book, The Mysterious Science of the Law.

In 1941, he married Ruth Frankel, herself a scholar, who has edited all his subsequent books. They have three sons. After 52 years of marriage, they remain an insatiably curious literary team. When I visited them, they had just returned from a cruise to the Antarctic.

After a brief stint as a government lawyer during World War II, Boorstin moved to Swarthmore College, where he was invited to teach European history. Ironically, that is when he developed an enthusiasm for American history and especially for Thomas Jefferson, who remains his favorite American hero. The Lost World of Thomas Jefferson, Boorstin's third book, written 45 years ago, is still in print. He reminds me that we recently commemorated (April 13) the 250th anniversary of the birth of our third President.

"American Humanism is the legacy of Jefferson," Boorstin explains. As the author of the Declaration of Independence, Jefferson "appealed to all humanity and to the common sense of mankind" when he wrote: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness." This political philosophy is the mainstay of America's relative stability at a time of deep ethnic, religious and political tension around the world, Boorstin emphasizes.

The Constitution, he goes on, is the fundamental American institution, "the oldest written constitution, in use and the greatest piece of political technology that was ever accomplished." Referring to the recent swearing in of a new President, Boorstin remarks: "We often forget that the oath of the President is the only ceremony prescribed in our Constitution and the only ritual we have in the United States—the oath to protect, preserve and defend the Constitution. That is an amazing fact, the vitality of our Constitution."

Boorstin was a professor for 25 years at the University of Chicago, where his reputation as one of the most notable original American minds was developed. It was there that he began to write his well-known trilogy, the Americans, which is divided into the Colonial Experience, The National Experience and The Democratic Experience. (Over three consecutive years, President Bush gave leatherbound copies of the set, with the Presidential Seal, as Christmas presents to 150 of his close associates.) The Democratic Experience was awarded the Pulitzer Prize for history. Boorstin also edited the 30-volume Chicago History of American Civilization during his years at the University of Chicago.

In 1975, President Ford chose Boorstin as Librarian of Congress, the finest intellectual distinction the federal government can bestow on a citizen. At the time, Boorstin consulted the poet Archibald MacLeish, a former Librarian of Congress, about whether he could direct the library and still write books. "Archie asked me, 'How much sleep do you need?'" he recalls.

Administering the world's greatest library—with its more than 5000 employees, an annual budget of $300 million and 98 million books, manuscripts, periodicals, maps and visual materials in 470 different languages—Boorstin managed to do his own writing at home at 6 a.m. and working nights and weekends. During those years, he published The Discoverers, about people who made milestone discoveries throughout history. A huge success, the book has been translated into 20 languages.

After 12 years of this strenuous life, Boorstin resigned to concentrate on writing books to his heart's content. A special Act of Congress created for him the title of Librarian Emeritus, which entitles Boorstin to an office at the Library of Congress—where he often visits to research his latest project. The Creators: A History of Heroes of the Imagination was published last year. It traces the progress of human genius from the sacred hymns of Hindu sects 35 centuries ago to the moviemakers of today, and it made Boorstin the only author ever honored with three nonfiction main selections of the Book-of-the-Month Club.

After all his years of studying the vistas of human experience, Boorstin continues to preach the credo of Thomas Jefferson and American Humanism as our most robust defense against the turmoil of our time. "If you want to sum up Jefferson," he tells me in farewell, "please read his epitaph at Monticello:

"'Here was buried Thomas Jefferson. Author of the Declaration of American Independence, of the Statute of Virginia for Religious Freedom, and Father of the University of Virginia.'"

Then he adds one more thought:

"You know, the most important lesson of American history is the promise of the unexpected. None of our ancestors would have imagined settling way over here on this unknown continent. So we must continue to have a society that is hospitable to the unexpected, which allows possibilities to develop beyond our own imaginings."

SUPPORTING IMPLEMENTATION OF JOINT ACTION PLAN ON BOSNIA

Mr. PELL. Mr. President, I support the administration's most recent step to implement the joint action plan, announced in May, to try to bring an end to the terrible suffering in Bosnia. The joint action plan agreed to by the United States, the United Kingdom, Russia, Spain, and France, stated: "The United States is prepared to meet its commitment to help protect UNPROFOR forces in the event they are attacked and request such action. Further contributions from other countries would be most welcome."

At the time the joint action plan was announced, I welcomed the multilateral agreement on this very difficult issue. This is a critical time for Bosnia, and I am pleased that the allies are moving ahead to implement this portion of the joint action program. I am a strong advocate of multilateral diplomacy, but for diplomacy to work, the various parties must be prepared to act. Once they agree to a course of action, they must be prepared to follow through.

Lack of resolve plays into the hands of the aggressors. Accordingly, I welcome the fact that after weeks of negotiation, the United States and other European countries apparently have agreed to participate in a U.N. operation, to be carried out by NATO, to provide air cover for U.N. forces in Bosnia.

Mr. President, I have been very cautious on the issue of the use of American force in Bosnia, and I have long

argued that the United States has to ask some very difficult questions before escalating its involvement and committing United States forces to Bosnia. However, my understanding of the U.S. decision to provide air cover is that no United States ground troops will be used, and that is as it should be. Moreover, United States and allied planes will be used only to protect U.N. soldiers who come under direct attack in the performance of their humanitarian duties in Bosnia.

I commend the administration for continuing to work with our allies on this very difficult issue. In fact my support for this latest course of action is wholly contingent upon it being multilateral. I am hopeful that this show of resolve will help the people of Bosnia and will have a positive impact on the negotiations now occurring in Geneva.

THE LEGACY OF BOSNIA AND HERZEGOVINA

Mr. DECONCINI. Mr. President, over the weekend we witnessed yet another surge of violence unleashed against the citizens of Sarajevo. U.N. military personnel deployed in the area also came under heavy fire. Last week I took the floor in conjunction with an urgent appeal Congressman STENY HOYER and I sent to the White House, along with scores of colleagues from the House and Senate.

Our appeal urges the President to take immediate action to save the residents of Sarajevo. The situation is desperate.

Beyond the immediate humanitarian crisis in Sarajevo and elsewhere, the international community, including the United States, must come to grips with the armed aggression which has brought the people of Bosnia and Herzegovina to the edge of this abyss.

Secretary of State Warren Christopher, in recently commenting on the conflict, remarked, "It's a tragic situation, that could have been much better dealt with 2 years ago or even 1 year ago." I could not agree more. However, I do not agree that there is nothing that can be done.

The international community's lack of resolve in the face of naked aggression and genocide in Bosnia and Herzegovina has sealed the fate of tens of thousands of innocent men, women, and children.

We have stood by and allowed this senseless slaughter to continue.

Will we look back 6 months or a year from now and say it's a situation that could have been dealt with earlier? Inaction in the past is no excuse for present inaction. The options will not get any easier with the passage of even more time.

In a poignant and timely op-ed piece, George Zarycky warns of the consequences of the current malaise.

We should not fool ourselves, the legacy of Bosnia and Herzegovina will be with us and haunt us for many years to come. I commend this article to the attention of my colleagues and ask unanimous consent that the full text be included in the RECORD.

UNPARALLELED INTERNATIONAL COWARDICE

(By George Zarycky)

Sarajevo will soon fall. Bosnia-Herzegovina, as such, will cease to exist. The end will culminate a two-year death watch and mark the nadir of Western foreign policy in the post-Cold War period. And Bosnia's agonizing dismemberment will be met—despite furrowed brows and public hand-wringing—with a collective sigh of relief resounding from the capitals of Western Europe to the State Department to the White House.

Conservative estimates put the death toll at 200,000. Few of these are soldiers of organized armies who died on the noble fields of battle. This war was about rag-tag militias, looters, weekend Serb mercenaries and raiders, thugs killing civilians, "ethnic cleansing," mass rape as military doctrine, depopulation, the wholesale destruction of towns and villages. It was about territory and conquest and settling scores centuries old. It was about Serbian hegemony and unparalleled international cowardice.

The enormity and scope of the debacle boggles the mind. There will be the usual finger-pointing. Warren Christopher will scowl and blame the Europeans. The Germans will blame the French, the French the Germans. Military specialists from NATO to the Pentagon will somberly report that intervention was untenable given the terrain, logistics and complexity of the situation even as the United Nations sends helicopter gunships into the heart of downtown Mogadishu to flush out a warlord.

Meanwhile, Bosnian Muslims will be hard-pressed to find the difference between Somalian warlords and Serb Militia leaders or between Saddam Hussein and Slobodan Milosevic. After all, aren't both of them war criminals? The Muslims should have realized that in this scenario, they were like the Iraqi Kurds left to freeze to death in the mountains north of Baghdad while George Bush and the nation were flushed with "victory." They should have realized that torrents of international condemnation and saber-rattling mean nothing unless you have oil or resources or threaten Americans. Genocide, ethnocide, death camps, slaughtering civilians fall out of the purview of U.S. or Western "vital interests."

What else can any of us conclude as we watch this tragedy play itself out? Where do we ascribe blame? Whose failure was it?

There is enough to go around. There was the Bush-Baker-Gorbachev insistence on sticking to a Cold War mind-set even as the last artificially cobbled, multiethnic empires were unraveling. There was the post-Gorbachev policy void, as Bush and his minions misunderstood the differences between self-determination, democracy and nationalism, ignoring calls from Balkan leaders and foreign policy specialists who insisted that sovereignty claims by Croatia, Slovenia and Bosnia be backed with force and resolve lest Serbia see inaction as the green light for revanchist expansionism. And while first one shell then another fell on Sarajevo, and Serbia's exploratory forces remined little more than lightly equipped militia and former Yugoslav Army units (perhaps still smarting from defeat by Slovenian border guards), recommendations for limited air strikes to knock out artillery batteries were ignored as the United States debated peace dividends and the economy in the 1992 campaign.

And what of Europe? Bickering over Maastricht beef quotas, "great power" German-French gamesmanship and immigration quotas were key items on the agenda as atrocities led to the largest influx of refugees in Europe since World War II. As Lisbon talks begat Geneva, which begat Vance-Owen, which begat "safe havens," Bosnia's agony intensified. Croatia laid claim to its share. Serbia put a stranglehold on the rest. As envoys scurried from city to city, venue to venue, insisting that aggression must never be rewarded, the arm-twisting of Bosnian leaders was in full swing. Suddenly, President Alija Izetbegovic, who saw his country plundered and chopped up into pieces, was being recalcitrant, unreasonable, obstructionist in adhering to the principles of sovereignty and freedom.

The Christopher-Tarnoff doctrine may well be Bosnia's last will and testament. Noble ideals of democracy, liberty and human rights all Americans hold dear will be selectively enforced by a leadership locked in the thrall of political expediency. Clearly, this is a muddled, dangerous message at a time tensions are rising from Russia to Central Asia to Latin America to the Middle East.

In my 40 years, I've lived through far too many wars and human calamities of atrocious scale. But something, the right thing, was always said or done. Millions protested the Vietnam War. The sickening conflict in Biafra brought international attention, benefits, donations. The India-Pakistan war in 1971 gave us George Harrison's concert for Bangladesh and world attention, as did the outbreaks in the Middle East, Belatedly, Cambodia gave us "The Killing Fields," and the war of Ethiopia's government against the people spurred Live Aid to help starving millions.

Bosnia's public murder has nothing to do with compassion fatigue or the failure of journalists to make the story graphic and real. We've all seen the horrific pictures. Headlines and op-eds have screamed for action. The mass rapes appalled us. So too the stark images of retarded children abandoned to die.

Bosnia's tragedy reflects the lack of will, courage, resolve, the fragility of the democratic idea espoused but not defended. Bosnia is a horrible lesson, one the years of subsequent rationalization, avoidance and analysis must not diminish. Moral vicissitudes and evasions, when they eclipse our ability to see and respond to evil, will undermine our values and our fundamental beliefs at a time the World is shrinking and so many are looking West for leadership. Milosevic's triumph diminishes all of us.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 26, 1993. The estimates of

budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $1.6 billion in budget authority and above by $0.6 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $392.4 billion, $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

Since the last report, dated July 20, 1993, Congress has approved for the President's signature H.R. 2561, a bill to transfer naval vessels to certain foreign countries. This action changed the current level of budget authority and outlays.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1993 and is current though July 26, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 20, 1993, Congress has approved for the President's signature H.R. 2561, a bill to transfer Naval Vessels to Certain Foreign Countries. This action changed the current level of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS. AS OF CLOSE OF BUSINESS JULY 26, 1993

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level[1]	Current level over/under resolution
On-budget:			
Budget authority	1,250.0	1,248.4	−1.6
Outlays	1,242.3	1,242.9	.6
Revenues:			
1993	848.9	849.4	.5
1993–97	4,818.6	4,820.0	1.4
Maximum Deficit Amount	420.8	392.4	−28.4
Debt Subject to Limit	4,461.2	4,244.9	−216.3
Off-budget:			
Social Security outlays:			
1993	260.0	260.0	.....
1993–97	1,415.0	1,415.0	.....
Social Security revenues:			
1993	328.1	328.1	(2)

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS. AS OF CLOSE OF BUSINESS JULY 26, 1993—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level[1]	Current level over/under resolution
1993–97	1,865.0	1,865.0	(2)

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JULY 26, 1993

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	0	0	849,425
Permanents and other spending legislation	764,283	737,413	0
Appropriation legislation	732,061	743,943	0
Offsetting receipts	(240,524)	(240,524)	0
Total previously enacted	1,255,820	1,240,833	849,425
ENACTED THIS SESSION			
CIA Voluntary Separation Incentive Act (Public Law 103–36)	1	1	0
Unclaimed Deposits Amendments Act (Public Law 103–44)	0	1	0
1993 Spring Supplemental (Public Law 103–50)	1,003	1,199	0
Total enacted this session	1,004	1,201	0
PENDING SIGNATURE			
Transfer of naval vessels to certain foreign countries	(8)	(8)	0
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(8,443)	922	0
Total current level[1]	1,248,373	1,242,947	849,425
Total budget resolution[2]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	1,617	0	0
Over budget resolution	0	657	535

[1] In accordance with the Budget Enforcement Act, budget authority and outlay totals do not include the following in emergency funding.

[In millions of dollars]

	Budget authority	Outlays
Public Law:		
102–229	0	712
102–266	0	33
102–302	0	380
102–368	1,060	5,873
102–381	218	13
103–6	3,322	3,322
103–24	4,000	4,000
Offsetting receipts	(4,000)	(4,000)
103–50	0	(30)
Total 1993 emergency funding	4,600	10,303

[2] Includes a revision under sec. 9 of the concurrent resolution on the budget.

Note.—Amounts in parentheses are negative. Detail may not add due to rounding.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 843. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes.

S.J. Res. 111. Joint resolution to designate August 1, 1993, as "Helsinki Human Rights Days."

At 1:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2667. An act making emergency supplemental appropriations for relief from the major widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent and referred as indicated:

H.R. 2667. An act making emergency supplemental appropriations for relief from the major widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1309. A communication from the Secretary of Education, transmitting, pursuant to law, a report on activities aimed at meeting the needs of children and youth with disabilities from minority backgrounds; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–195. A resolution adopted by the City of Palm Bay, Brevard County, FL, relative to the Space Station Program; to the Committee on Commerce, Science, and Transportation.

POM–196. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on Commerce, Science, and Transportation.

"H.J. RESOLUTION NO. 246

"Whereas, the people of the United States of America have reaped tremendous benefits from their investments in manned space exploration; and

"Whereas, the people of the United States of America remain committed to the idea of exploring the heavens and investigating other planets in our solar system; and

"Whereas, the next logical step in the exploration of space is the development of space laboratories and living quarters capable of sustaining extended space-crewed missions; and

"Whereas, America needs to stimulate interest in the pure sciences to improve its education system, and Space Station Freedom will inspire young Americans to pursue careers in math and science and excel by illustrating future opportunities; and

"Whereas, Space Station Freedom will serve as a symbol of the new world order and an opportunity to focus our technical know how into joint international programs; and

"Whereas, the Space Station Freedom program is the largest international venture in science and technology ever undertaken with 15 countries having already contributed over $1 billion with commitments to spend over $7 billion in the development program through a signed treaty agreement; and

"Whereas, our investments in the space program and specifically in the Space Station Freedom Project will result in new medicines, materials, processes and technologies which will improve the quality of life on this planet and expand our economy in many ways which today can not be imagined; and

"Whereas, our ability to compete in a global economy and develop new and innovative technologies has in large measure been commensurate with our investments in space exploration; and

"Whereas, the Space Station Freedom Project is directly and indirectly responsible for the employment of 50,000 Americans involving 2,000 businesses in 30 states; and

"Whereas, the aerospace industry, previously one of Amercia's most vibrant industries, accounting for over 10 percent of all United States exports, has suffered serious dislocation in the last three years with over 282,000 or 20 percent of the workforce having been laid off; now therefore

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring,

"That we would encourage the Congress of the United States of America and the President of this great land to support and fund the Space Station Freedom Project.

"Be it further resolved,

"That copies of this resolution be sent to the President and Vice-President of the United States and members of the Alabama Congressional Delegation."

POM-197. A resolution adopted by the Legislature of the State of New York; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY NO. 1289

"Whereas, It is the sense of this Assembled Body to urge the members of the United States Congress to pass Senate Bill 228, Children's Bicycle Helmet Safety Act of 1993; and

"Whereas, The purpose of Senate Bill 228 is to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16; and

"Whereas, Congress has found that 90 million Americans ride bicycles, and 20 million ride a bicycle more than once a week; between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that were treated in hospital emergency rooms; 41 percent of bicycle-related head injury deaths and 76 percent of bicycle-related head injuries occurred among American children under age 15; deaths and injuries from bicycle accidents cost society $7.6 billion annually, and a child suffering from a head injury, on average, will cost society $4.5 million over the child's lifetime; universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 injuries; and only 5 percent of children in the Nation who ride bicycles wear helmets; and

"Whereas, The Administrator of the National Traffic Safety Administration may, in accordance with section 4, make grants to states, state political subdivisions, and nonprofit organizations for the purpose of promoting the use of bicycle helmets by individuals under the age of 16; in making those grants, the administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use; and

"Whereas, Grants made under section 3 may be used by a grantee to: 1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles; 2) assist individuals under the age of 16 to acquire approved bicycle helmets; 3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or 4) carry out any combination of the activities described in paragraphs 1, 2, and 3; and

"Whereas, For the National Highway Traffic Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996; now, therefore, be it

"Resolved, That this Legislative Body pause in its deliberations to urge the members of the United States Congress to pass Senate Bill 228, Children's Bicycle Helmet Safety Act 1993; and be it further

"Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the members of the United States Congress."

POM—198. A resolution adopted by the Legislature of the Board of County Commissioners, Hernando County, Florida relative to offshore drilling; to the Committee on Energy and Natural Resources.

POM—199. A joint resolution adopted by the Legislature of the Republic of Palau; to the Committee on Energy and Natural Resources.

"S.J. RESOLUTION NO. 4-26

"Whereas, Ms. Leslie Turner is a native of East Orange, New Jersey, she earned a B.S. Degree from New York University and a J.D. Degree from Georgetown University Law Center, Washington, D.C.; and

"Whereas, prior to this appointment to her present position, Ms. Turner served as a Judicial Law Clerk for Chief Judge William C. Pryor, District of Columbia Court of Appeals; and

"Whereas, Ms. Leslie Turner was also a Senior Associate with the Law Firm of Akin, Cump, Strauss, Hauer and Feld, located in Washington, D.C.; and

"Whereas, since she first joined the Firm, she has managed numerous cases involving the Foreign Corrupt Practices Act, International Business, Government Contracts, Securities Fraud, Employment Discrimination, Lender Liability, Real Estate and Commercial Law, and Privatization of Urban Transportation Systems; and

"Whereas, Ms. Turner's strong legal skills will be a great asset to the Department's work with the Territorial Governments; and

"Whereas, the people of the Republic of Palau are pleased with the appointment of the Honorable Ms. Leslie Turner, who has distinguished herself as a capable statesman and a strong advocate of Pacific interests, to this important position which has a direct impact upon the relationship between the United States and the Republic; now, therefore

"Be it resolved by the Senate of the Fourth Olbill Era Kelulau, Third Special Session, May 1993, the House of Delegates concurring,

"That the people of Palau, represented in the Olbill Era Kelulau, do hereby congratulate and commend the Honorable Ms. Leslie Turner on her appointment to the position of the Assistant Secretary of the Interior for Territorial and International Affairs; and

"Be it further resolved,

"That certified copies of this joint resolution be transmitted to the Honorable Ms. Leslie Turner, Assistant Secretary of the Interior for Territorial and International Affairs; the Honorable Mr. Bruce Babbitt, Secretary of the Interior; the President of the United States of America; the Honorable J. Bennett Johnston, Chairman, Senate Committee on Energy and Natural Resources; the Honorable George Miller, Chairman, House Committee on Natural Resources; the Vice President of the United States of America in his capacity as the President of the Senate; the Speaker of the House of Representatives of the United States Congress; the President of the Republic of Palau; and the President of the Senate and the Speaker of the House of Delegates of the Fourth Olbill Era Kelulau."

POM-200. A joint resolution adopted by the Legislature of the Republic of Palau; to the Committee on Energy and Natural Resources.

"S.J. RESOLUTION NO. 4-25

Whereas, Mr. Allen P. Stayman holds a B.A. Degree in Environmental Design from the University of Washington in Seattle; and a Masters Degree in Fisheries Science; and

"Whereas, Mr. Stayman served as a Professional Biologist on a series of consulting projects and studies involving the impact of hydroelectric development on fisheries and salmon migration in the North Pacific Ocean and Alaskan coastal waters; and

"Whereas, the Honorable Mr. Stayman has served since 1984 as the principal staff member for the Senate Committee on Energy and Natural Resources, with responsibility for Insular Affairs; and

"Whereas, during that period of time, Mr. Stayman made major contributions to Public Law involving the Insular area, including the Compact of Free Association Act of 1985, he also served as the principal staff member for the Subcommittee on Conversion and Regulation with responsibility for energy efficiency; and

"Whereas, Mr. Stayman was also a staff member with responsibility for civilian programs of the Department of energy, National Oceanic and Atmosphere Administration, Office of Territorial and International Affairs, for the Department of Interior and Energy; and

"Whereas, the people of the Republic of Palau are pleased with the appointment of the Honorable Mr. Allen P. Stayman to become Deputy Assistant Secretary of the Interior for Territorial and International Affairs, and with his sensitivity and understanding of the pacific region, and especially the Republic of Palau, which is the last remaining Trust Territory in the world; now, therefore

"Be it resolved by the Senate of the Fourth Olbiil Era Kelulau, Third Special Session, May 1993, the House of Delegates concurring,

"That the people of Palau represented in the Olbiil Era Kelulau do hereby congratulate and commend the Honorable Allen P.

Stayman on his appointment to the position of the Deputy Assistant Secretary of the Interior for Territorial and International Affairs; and

"*Be it further resolved,*

"That certified copies of this joint resolution be transmitted to the Honorable Allen P. Stayman, Deputy Assistant Secretary of the Interior for Territorial and International Affairs; the Honorable Bruce Babbitt, Secretary of the Interior; the Honorable J. Bennett Johnston, Chairman of the Senate Committee on Energy and Natural Resources; the Honorable George Miller, Chairman of the House Committee on Interior and Insular Affairs; the President of the United States of America; the Vice President of the United States of America in his capacity as the President of the Senate, the Speaker of the House of Representatives of the United States Congress; the President of the Republic of Palau; the President of the Senate and the Speaker of the House of Delegates of the Fourth Olbiil Era Kelulau.

Adopted: May 31, 1993."

POM-201. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Energy and Natural Resources.

"H.J. RESOLUTION NO. 12

"Whereas, Guam seeks to protect the inalienable rights of its citizens through greater self-determination as part of the American territories through the establishment of a just political relationship between the people of Guam and the United States government; and

"Whereas, Guam seeks to protect the rights of its people in areas of vital economic interest, such as land use, immigration, taxation, and the applicability of U.S. laws that constrain Guam's economic development; and

"Whereas, it is in the interest of the United States that America's states, commonwealths, and territories be able to determine the course of their own communities within the American system; and

"Whereas, the right to self-government is cherished and championed as a founding principle of the United States of America; and

"Whereas, commonwealth status for Guam would guarantee citizenship status and protect the rights of and give a voice to the people of Guam in order that Guam may determine its own destiny under the principles and protection of the U.S. Constitution.

"*Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:*

"That Montana support Guam's quest to become a commonwealth of the United States of America and strongly encourage the U.S. Congress and the President of the United States to grant commonwealth status to the people of Guam.

"*Be it further resolved,*

"That the Secretary of State send copies of this resolution to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and the President of the United States."

POM-202. A joint resolution adopted by the Legislature of the State of Nevada, to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 17

"Whereas, Agriculture is one of Nevada's oldest industries; and

"Whereas, The economies of many of this state's rural counties are dependent on ranching and farming; and

"Whereas, Cash receipts from the sale of livestock, crops and other agricultural products contributed over $300,000,000 to this state's economy in 1990; and

"Whereas, The largest share of this amount was attributable to livestock that was grazed on public lands; and

"Whereas, Reasonable fees for grazing livestock on public lands are vital to maintaining a prosperous industry of agriculture in this state; and

"Whereas, Congress is proposing to increase those grazing fees to an unreasonable level; now, therefore be it

"*Resolved, by the Senate and Assembly of the State of Nevada, jointly,* That the Legislature of the State of Nevada supports the industry of agriculture in this state, and be it

"*Resolved,* That Congress is hereby urged to reject any proposal to increase the fees for grazing livestock on public lands to an unreasonable level; and be it further

"*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Vice President of the United States as President of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-203. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 14—

Whereas, Approximately 86 percent of the land in Nevada is owned by the Federal Government; and

Whereas, The rate of increase in the population of Nevada is the highest in the nation; and

Whereas, The amount of privately owned land which is available for the expansion of communities in this state is limited; and

Whereas, The Federal Government to acquire privately owned land; and

Whereas, The residents of this state would benefit greatly if more land in this state were privately owned; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the Nevada Legislature urges the Congress of the United States to:

1. Monitor the acquisition of privately owned land by federal agencies to ensure that local governments in this state are not adversely affected by those acquisitions;

2. Limit the amount of privately owned land the Federal Government may acquire in this state; and

3. Promote the transfer of certain appropriate land in this state owned by the Federal Government to private ownership; and be it further

"*Resolved,* That copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval.

POM-204. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 12

"Whereas, The right of way was granted for the construction of highways over public lands not reserved for other public uses by section 8 of chapter 262, 14 Statutes 253 (former 43 U.S.C. §932), which was enacted in 1866; and

"Whereas, The placement of that section in an act primarily devoted to the encouragement of mining upon public lands suggests that an important purpose of the grant was to provide access to mining claims, but the operation of the grant was extended by section 17 of the Placer Act of 1870, which also affected other patents, preemptions and homesteads, so that the right of access was extended broadly to private property; and

"Whereas, When section 8 of the Act of 1866 was repealed in 1976 by section 706 of Public Law 94-579, section 701 of Public law 94-579 also provided: "Nothing in this Act * * * shall be construed as terminating any valid * * * right-of-way [sic], or other land use right or authorization existing on the date of approval of this Act"; and

"Whereas, This Legislature is informed that the United States Forest Service is demanding that the users of rights of way which provide access to private parcels of land and which were established pursuant to section 8 of the Act of 1866 apply and pay for permits that limit the duration and nature of the use long and freely enjoyed by the owners of these parcels as an incident of their ownership, where the right of way lies within a National Forest; and

"Whereas, Such a limitation of use and provision for future extinction violates the rights of those users which were preserved in 1976 by section 701 of Public Law 94-579, and which necessarily include the right of access to their lands and the right to maintain that access physically; and

"Whereas, Because only 13 percent of the land in Nevada is privately owned, it is imperative for the well-being of the state as well as the taxpaying residents who own those lands to hold open their rights of access; and

"Whereas, This Legislature had recognized the important benefits to this state and its residents from the continued and permanent existence of the roads established over those rights of way, and has enacted law setting forth the rights and correlative duties of the owners of those rights of way and the rights of the public to use them; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the Nevada Legislature urges the United States Forest Service, the Bureau of Land Management, and other agencies of the executive department of the Federal Government to recognize the permanent rights existing in those roads that serve private property, and urges the Congress of the United States in the exercise of its oversight to ensure that those rights are in fact respected; and be it further

"*Resolved,* That a copy of this resolution and any related legislative measures enacted by this legislature be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, to the Speaker of the House of Representatives, and to each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-205. A resolution adopted by the House of the Legislature of the State of New Hampshire; to the Committee on Energy and Natural Resources.

"HOUSE RESOLUTION NO. 25

"Whereas, reports in the national press have caused the citizens of New Hampshire

to be concerned about the continuity and security of timber from the White Mountain National Forest; and

"Whereas, uncertainty about the continuity and security of timber supplies can adversely affect future plans for a number of wood-dependent companies in northern New England and discourage new wood-dependent companies in northern New England and discourage new wood-dependent industries from establishing operations in northern New England; and

"Whereas, the 1986 Land and Resource Management Plan for the White Mountain National Forest encompasses recreational, environmental, wildlife and migratory bird issues, along with timber growth and harvesting; and

"Whereas, the multiple-use concept of forest management has been a long standing viable policy to the White Mountain National Forest; now therefore, be it

"*Resolved by the House of Representatives*, That the house of representatives of New Hampshire urges the United States Congress to continue its support for the 1986 Land and Resource Management Plan for the White Mountain National Forest while emphasizing the need for improved efficiency and cost reduction compatible with that plan; and

"That continuing support by Congress be publicly disseminated so that the residents of northern New England may become reassured of the continuity and security of timber from the White Mountain National Forest with the attendant improvements in the economic climate of the area; and

"That copies of this resolution be forwarded by the house clerk to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation."

POM-206. A resolution adopted by the Committee on Natural Resources of the Senate of the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

"COMMITTEE RESOLUTION

"Whereas, reports received indicate the Federal Timber Team advising President Clinton is recommending "option 9" as the best solution to the spotted owl management issue, and;

"Whereas, this option and any other of the 8 options will have a devastating economic impact on the Pacific Northwest and the 1.5 billion dollar 5 year community assistance package proposal does not begin to cover the full costs, and;

"Whereas, these options need further refinement, for greater public input and a higher level of analysis of social, economic and environmental costs and benefits for federal, state and private lands, and;

"Whereas, even "Option 9" will cause a job loss of 85,000 jobs in the region, and has total opposition from labor, and;

"Whereas, there is strong congressional opposition to President Clinton proceeding with "Option 9" or any other option until a more balanced approach is developed, and;

"Whereas, a level of 1.2 billion board feet timber cut from the 13 western national forests is not adequate to maintain a viable industry, and;

"Whereas, "Option 9" or any of the other 8 options do not constitute a balance between the environment and economy of the northwest.

"*Now, therefore, be it resolved*, That the Senate Natural Resources Committee ask President Clinton and his timber advisors to delay making a final decision on "Option 9" or any other option until a new option is developed that recognizes the full costs and benefits, the direct and indirect impact on state and private lands, and all of the endangered species issues relating to timber in Northern California, Oregon and Washington.

"*Be it further resolved* That no plan be adopted until specific laws and policies are developed to require federal agency coordination of a balanced forest policy for all endangered species.

"*Be it further resolved* That the Secretary of the Senate transmit copies of this committee resolution to the Honorable President Bill Clinton and all members of the United States Congress."

POM-207. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

"HOUSE JOINT MEMORIAL 4007

"Whereas, Dick Fitzner and Les Eberhardt lost their lives in a plane crash on the morning of June 3, 1992; and

"Whereas, Dr. Fitzner and Dr. Eberhardt each served as environmental scientists for more than twenty years; and

"Whereas, Dr. Fitzner and Dr. Eberhardt dedicated their professional and personal lives to understanding and appreciating the dry land ecology of the shrubsteppe; and

"Whereas, They shared their appreciation and understanding of the shrubsteppe with students of all ages; and

"Whereas, The Hanford Arid Lands Ecology Reserve contains shrubsteppe habitat with threatened and endangered plants and animals as well as thriving populations of other species;

"Now, therefore, Your Memorialists respectfully pray that the Hanford Arid Lands Ecology Reserve be named the Fitzner and Eberhardt Arid Lands Reserve.

"*Be it resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the Secretary of Energy Hazel O'Leary, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-208. A resolution adopted by the Town Board of the Town of East Hampton, New York relative to Mud Dump; to the Committee on Environment and Public Works.

POM-209. A resolution adopted by the City Commission of the City of Key West, Florida relative to Florida Bay; to the Committee on Environment and Public Works.

POM-210. A resolution adopted by the Travel Commission of the State of Michigan relative to the Great Lakes; to the Committee on Environment and Public Works.

POM-211. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 15

"Whereas, The conservation and preservation of endangered species of wildlife in the United States is necessary and desirable to halt and reverse the trend toward the extinction of certain species of wildlife and to maintain the diversity of indigenous forms of life within the United States; and

"Whereas, The protection of endangered species and their habitats often requires a restriction upon economic growth and development in the geographic areas in which the habitats are located, thereby creating hardships upon the persons residing within those geographic areas; and

"Whereas, The conflict resulting from the protection of an endangered species and the restriction of economic growth is often unavoidable, but the impact of such a conflict can be lessened by allowing for a balancing of those conflicting interests; and

"Whereas, The provisions of 16 U.S.C. §1533 require the Secretary of the Interior to make a determination as to whether a species is endangered based solely upon available scientific and commercial data; and

"Whereas, Pursuant to the provisions of 16 U.S.C. §1533, the Secretary of the Interior has recently listed the desert tortoise as a threatened species; and

"Whereas, The listing of the desert tortoise as a threatened species has had a significant impact upon the economic development of the areas surrounding the City of Las Vegas; and

"Whereas, The State of Nevada, being a sparsely populated and predominantly rural state with few metropolitan areas within which to build a sound economic base, relies heavily upon the City of Las Vegas as an area in which to grow and expand; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, Jointly*, That Congress is hereby urged to amend the provisions of 16 U.S.C. §1533 to require a determination of whether to list a species of wildlife as endangered or threatened to be made in a timely manner in order to allow the proper evaluation of the economic impact of that determination and, to the extent reasonably possible, mitigate the economic impact of that determination upon the development and growth of local economies in the geographic area in which the species is located; and be if further

"*Resolved*, That Congress is hereby urged to require the Secretary of the Interior, when preparing a recovery plan for a species of wildlife listed as endangered or threatened pursuant to the provisions of 16 U.S.C. §1533, to include in the recovery plan an economic analysis of the impact such a plan will have upon local economies in the geographic area in which the habitat of an endangered or threatened species of wildlife is located; and be it further

"*Resolved* That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-212. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 177

"Whereas, the city of New Iberia has a substantial interest in encouraging and promoting commerce and prosperity in the state; and

"Whereas, the city of New Iberia and the state of Louisiana has a responsibility to protect the health and safety of the citizens of the area; and

"Whereas, an adequate highway system is necessary for economic growth and prosperity as well as safe evacuation of area residents during hurricanes or other emergencies; and

"Whereas, consideration is being given currently to the expansion of the interstate highway system in Louisiana, specifically the extension of Interstate 49; and

"Whereas, the Federal Highway Administration, through the Intermodal Surface Transportation Efficiency Act of 1991, is developing a National Highway System and is requiring input into such development from local and state government.

"*Therefore, be it resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to consider the construction of a four-lane limited access highway connecting the New Iberia, Morgan City, Thibodaux, and Houma metropolitan areas to Interstate 49.

"*Be it further resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-213. A joint resolution adopted by the General Assembly of the State of Maryland; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 11

"Whereas, Supreme Court Justice Thurgood Marshall was a great legal advocate and judicial scholar of the civil rights movement in the United States; and

"Whereas, Mr. Marshall was born and raised in Baltimore and excluded from the then all white law school at the University of Maryland; and

"Whereas, Mr. Marshall, undeterred, pursued his dream and in 1933 graduated first in his law school class at Howard University; and

"Whereas, As counsel for the NAACP Legal Defense and Education Fund, Thurgood Marshall won the landmark 1954 Supreme Court case, Brown v. Board of Education, and ended the "separate but equal" system of racial segregation then in effect in the public schools of 21 states; and

"Whereas, When asked by Justice Felix Frankfurter what he meant by "equal" during oral argument of Brown, Mr. Marshall replied, "equal means getting the same thing, at the same time, and in the same place" and coined a definition of equality that assured African Americans the full rights of citizenship; and

"Whereas, Thurgood Marshall's legal career spans 6 decades and includes an appointment by President John F. Kennedy to the U.S. Court of Appeals for the 2nd Circuit and an appointment by President Lyndon B. Johnson to the solicitor general of the United States; and

"Whereas, In 1967, Thurgood Marshall become the first black justice to sit on the Supreme Court in its 178-year history; and

"Whereas, Justice Marshall's record on the Supreme Court was always consistent: he championed the rights of minorities and the underprivileged, he supported affirmative action and a women's right to choose, he opposed restrictions on free speech and government expenditure benefiting religion, and he always opposed the death penalty; and

"Whereas, Justice Marshall became the voice of dissent in his later years on the bench, and in his 1973 dissent in San Antonio School District v. Rodriguez, he influenced the court for years to come by giving greater scrutiny to government decisions and more broadly reading equal protection guarantees; and

"Whereas, At his retirement news conference in 1991, Justice Marshall said that he wished to be remembered with 10 words: "That he did what he could with what he had"; and

"Whereas, Inscribed above the entrance to the Supreme Court are the words "Equal Justice Under Law"; and

"Whereas, Supreme Court Justice Thurgood Marshall lived his life to make these words a realty for generations of Americans; and

"Whereas, Thurgood Marshall will be missed by young and old, rich and poor, black and white, liberal and conservative, Supreme Court colleagues and fellow Americans; now, therefore, be it

"*Resolved by the General Assembly of Maryland*, That the United States Congress designate the southern division of the United States District Court for Maryland located in Beltsville, Maryland in northwestern Prince George's County as the "Thurgood Marshall United States Courthouse"; and be it further

"*Resolved*, That a copy of this Resolution be forwarded by the Department of Legislative Reference to the Honorable George J. Mitchell, Majority Leader of the Senate; the Honorable Robert J. Dole, Minority Leader of the Senate; the Honorable Thomas S. Foley, Speaker of the House of Representatives; and the Honorable Robert H. Michel, Minority Leader of the House of Representatives; and the Honorable Barbara A. Mikulski, U.S. Senator from Maryland, the Honorable Paul S. Sarbanes, U.S. Senator from Maryland, the Honorable Steny Hamilton Hoyer, U.S. Representative 5th Congressional District, and the Honorable Albert R. Wynn, U.S. Representative 4th Congressional District."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 4. A bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes (Rept. No. 103-113).

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 2520. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. No. 103-114).

By Mr. DECONCINI, from the Select Committee on Intelligence, without amendment:

S. 1301. An original bill to authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 103-115).

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 28, 1993.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Pursuant to S. Res. 400, I request referral of the fiscal year 1994 intelligence authorization bill to the Senate Committee on Armed Services.

Sincerely,

SAM NUNN,
Chairman.

By Mr. BUMPERS, from the Committee on Small Business, with an amendment in the nature of a substitute and an amendment to the title:

S. 1274. a bill to authorize funding for certain Small Business Administration programs, and for other purposes.

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. RIEGLE (for himself and Mr. SARBANES) (by request):

S. 1299. A bill to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. KASSEBAUM:

S. 1300. A bill to amend the Public Health Service Act to unify the reauthorization cycle with respect to Centers for Disease Control and Prevention programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 1301. An original bill to authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services, pursuant to the order of Senate Resolution 400, 94th Congress, for the thirty day period provided in section 3(b) of the Resolution.

By Mr. GRAHAM:

S. 1302. A bill to designate the Federal building in Jacksonville, Florida, as the "Charles E. Bennett Federal Building"; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself and Mr. BOREN):

S. 1303. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 1304. A bill to amend the Federal Water Pollution Control Act to improve the conservation of wetlands and thereby restore and maintain the physical, chemical and biological integrity of the Nation's waters, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN (for himself, Mr. BINGAMAN, Mr. THURMOND, Mr. ROTH, Mr. DOMENICI, Mr. LIEBERMAN, Mr. LEVIN, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CONRAD, Mr. ROBB, Mr. INOUYE, Mr. METZENBAUM, and Mr. SASSER):

S.J. Res. 117. A joint resolution to designate August 1, 1993, as "National Incest and Sexual Abuse Healing Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself and Mr. SARBANES) (by request):

S. 1299. A bill to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purpose; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1993

• Mr. RIEGLE. Mr. President, I am delighted to introduce, by request, the administration's Housing and Community Development Act of 1993. I am joined in introducing this bill by my distinguished colleague, Senator SARBANES, chairman of the Housing Subcommittee. I commend the President and Secretary Cisneros for the development of this innovative proposal. The Committee on Banking, Housing, and Urban Affairs will conduct a hearing this morning to begin consideration of this important legislative initiative.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement, as well as a letter from Secretary Cisneros, a summary, and a section-by-section analysis.

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

S.1299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION. 1. (a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—FHA MULTIFAMILY REFORMS
Sec. 101. Multifamily Property Disposition
Sec. 102. Amend the Requirement for State and Local Government Right of First Refusal
Sec. 103. Repeal State Agency Multifamily Property Disposition Demonstration
Sec. 104. Demonstration: RTC Marketing and Disposition of Multifamily Properties Owned by HUD
Sec. 105. Authorize Civil Money Penalties Against General Partners and Certain Managing Agents of Multifamily Projects
Sec. 106. Extend HUD Review Period for Approval of Management Improvement and Operating Plans
Sec. 107. Use of Flexible Subsidy in Preservation Projects
Sec. 108. Delete Requirement to Reduce Interest Rates to Avoid Foreclosure on Assigned Mortgages
TITLE II—ENHANCE PROGRAM FLEXIBILITY
SUBTITLE A—OFFICE OF PUBLIC AND INDIAN HOUSING
Sec. 201. Freeze Fees for Administration of the Certificate and Voucher Programs
Sec. 202. Revitalization of Severely Distressed Public Housing
Sec. 203. Disallowance of Earned Income for Residents Who Obtain Employment
Sec. 204. Ceiling Rents Based on Reasonable Rental Value
SUBTITLE B—OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT
Sec. 210. Economic Revitalization Initiative
Sec. 211. HOME Investment Partnerships
Sec. 212. Reduce HOPE 3 Match Requirement to 25%
SUBTITLE C—COMMUNITY PARTNERSHIPS AGAINST CRIME
Sec. 220. COMPAC Program
TITLE III—TECHNICAL AND OTHER AMENDMENTS
SUBTITLE A—PUBLIC AND ASSISTED HOUSING
Sec. 301. Correct the Definition of Family in the 1937 Act to Clarify that Families Are Not Required To Include Children
Sec. 302. Eliminate Requirement for Identification of CIAP Replacement Needs
Sec. 303. Applicability of Public Housing Amendments to Indian Housing
Sec. 304. Increase the Unit Threshold Above Which PHAs Are Required Tto Adopt Project-Based Accounting
Subtitle B—Multifamily Housing
Sec. 310. Correct Errors in Multifamily Mortgage Limits
Sec. 311. FHA Multifamily Risk-Sharing HFA Pilot Program Amendments
Sec. 312. Subsidy Layering Review

TITLE I—FHA MULTIFAMILY REFORMS

MULTIFAMILY PROPERTY DISPOSITION

SEC. 101. (a) SUBSIDIZED AND UNSUBSIDIZED PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(B) by striking paragraph (1) and inserting in lieu thereof the following:

"(1) preserving so that they are available to and affordable by low-income persons—

"(A) in the case of a subsidized or formerly subsidized multifamily housing project referred to in subsections (i)(2)(A) through (C), all units in the project;

"(B) in the case of a subsidized or formerly subsidized project referred to in subsection (i)(2)(D), all units in the project that are covered, or were covered immediately before foreclosure or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection;

"(C) in all other multifamily housing projects, at least the units that are covered, or were covered immediately before foreclosure or acquisition of the project by the Secretary, by a project-based assistance contract under—

"(i) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(ii) section 8 of the United States Housing Act of 1937, following conversion from such section 101;

"(2) in the case of multifamily housing projects other than subsidized projects, providing project-based rental assistance to units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of such Act immediately before foreclosure or acquisition of the project by the Secretary: *Provided*, That the assistance shall be limited to—

"(A) tenants residing in the units immediately before the foreclosure or acquisition; and

"(B) tenants initially admitted to units under such contract that were vacant at the time of the foreclosure or sale by HUD of the project;

and such assistance shall not be provided to subsequent tenants;";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ", including" and all that follows through "persons,"; and

(ii) by inserting "competent and" immediately before "capable";

(B) by adding at the end thereof the following new paragraph:

"(3) to develop such procedures as the Secretary determines necessary to obtain appropriate community or resident input into disposition plans; and";

(3) by striking paragraph (1) of subsection (d) and the introductory material preceding such paragraph (1), and inserting in lieu thereof the following:

"In carrying out the goals specified in subsections (a)(1) and (2), the Secretary shall take not less than one of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A)(i) In the case of a subsidized or formerly subsidized project referred to in subsections (i)(2)(A) through (C), the contract shall be for a term of at least 15 years and shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (i)(2)(D). In order to make available to families any of such units that are occupied by persons not eligible for assistance under section 8, but that subsequently become vacant, a contract under this clause shall also provide that when any such vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8. The Secretary shall use the authority contained in paragraph (3) in connection with any unit in such projects that does not receive project-based assistance under this paragraph.

"(ii) In the case of a subsidized or formerly subsidized project referred to in subsection (i)(2)(D), the contract shall be for a term of at least 15 years and shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection. In order to make available to families any of such units that are occupied by persons not eligible for assistance under section 8, but that subsequently become vacant, a contract under this clause shall also provide that when any such vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(iii) Contracts under clauses (i) and (ii) shall be at contract rents that, consistent with subsection (a), provide for the necessary rehabilitation of such project and do not exceed such percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) In all other multifamily housing projects the contract shall be for an initial term of at least five years and shall at least be sufficient to provide project-based rental assistance for all units—

"(i) that are covered, or were covered immediately before foreclosure or acquisition of the project by the Secretary, by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from such section 101: and

"(ii) that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of such Act immediately before foreclosure or acquisition of the project by the Secretary: *Provided*, That the assistance shall be limited to—

"(I) tenants residing in the units immediately before the foreclosure or acquisition; and

"(II) tenants initially admitted to units under such contract that were vacant at the time of the foreclosure or sale by HUD of the project;

and such assistance shall not be provided to subsequent tenants.";

"(4) by adding the following new paragraph at the end of subsection (d):

"(4) In connection with projects referred to in paragraph (1), the Secretary is authorized to make available tenant-based rental assistance under section 8(b) or (o) of such Act to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not qualify for project-based assistance under such paragraph."; and

"(5) in subsections (e)(3) and (4), by striking "15-year period" and inserting in lieu thereof the following: "the period of assistance".

(b) TENANT-BASED ASSISTANCE.—Section 203(d)(2) of such Act is amended—

"(1) in the first sentence, by striking the parenthetical; and

"(2) by adding at the end thereof the following new sentence: "Actions pursuant to this paragraph may be taken in connection with not more than 10 percent of the units in subsidized or formerly subsidized projects owned by the Secretary.".

(c) ALTERNATE ASSISTANCE.—Section 203(d)(3) of such Act is amended by striking "will ensure that," and all that follows through the end, and inserting in lieu thereof the following:

"will ensure that—

"(A) the project is available to, and affordable by, low-income persons; and

"(B) for a period of not less than 15 years, there shall be in force such use restrictions and rent regulation as the Secretary may prescribe.".

(d) NON-RENTAL, NONRESIDENTIAL USE.—Section 203(d) of such Act, as amended by the previous provisions of this section, is amended—

(1) by adding the following new paragraph at the end thereof:

"(5)(A) Notwithstanding any other provision of law, of the total number of units in multifamily housing projects that are owned by the Secretary, the Secretary may make up to—

"(i) 10 percent available for uses, other than rental or cooperative use, such as low-income homeownership opportunities, shelters for the homeless, and office space for resident or housing-related social service providers; and

"(ii) five percent available for any use, if the Secretary, in consultation with the local or areawide governing body, determines that such action will assist efforts to deconcentrate low-income housing opportunities.

"(B) In connection with projects referred to in subparagraph (A), the Secretary is authorized to make available tenant-based rental assistance under section 8(b) or (o) of such Act to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) to assist them in locating other decent, safe, and sanitary housing."; and

(2) in the last sentence of subsection (e)(1), by striking "value" and all that follows through "(d)" and inserting in lieu thereof the following: "intended use of the property after sale".

(e) DISPLACEMENT.—Sections 203(f)(2) (B) and (C) are each amended by striking "above-moderate income" and inserting in lieu thereof "above low-income".

(f) SALE OF MORTGAGES ON UNSUBSIDIZED PROJECTS.—Section 203(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of law, the Secretary is authorized to sell mortgages held on multifamily housing projects other than subsidized projects on such terms and conditions as the Secretary may prescribe.".

(g) DEFINITION OF "SUBSIDIZING PROJECT."—Section 203(i) of such Act is amended—

(1) in paragraph (1), by striking "or section 312 of the Housing Act of 1964";

(2) by striking subparagraph (C) of paragraph (2) and renumbering the remaining subparagraphs accordingly;

(3) in paragraph (2)(C), as redesignated by paragraph (2) of this subsection, by striking "or to" and all that follows through "1964";

(4) by striking subparagraph (D) of paragraph (2), as redesignated by paragraph (2) of this subsection, and inserting in lieu thereof the following new subparagraph:

"(D)(i) rent supplement payments under section 101 of the Housing and Urban Development of 1965; (ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or (iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o)), if (except for purposes of paragraphs (1) and (2) of subsection (h) and section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project."; and

(5) by striking paragraph (i)(4).

(h) OTHER PROVISIONS.—Section 203 of such Act is amended by adding at the end thereof the following new subsection:

"(k) In providing tenant-based assistance in connection with activities pursuant to subsection (d)(4) or (d)(5)(B), the Secretary shall take into consideration the condition of the local market in which the assistance will be used and shall take such steps as the Secretary deems necessary for the successful use of the assistance.".

(i) USE OF SAVINGS IN MANDATORY EXPENDITURES.—(1) From amounts of savings in mandatory expenditures that result from the amendments made by this section, the Secretary shall—

(A) make grants to States and units of general local government in a total amount of $400,000,000 for the rehabilitation of multifamily projects formerly owned by the Secretary that have been transferred to such governmental entities;

(B) transfer a sufficient number of multifamily housing projects owned by the Secretary to States and units of general local government to assure full use of the amount required for grants under subparagraph (A); and

(C) require that the grantees comply with requirements established by the Secretary governing use of the project and the grant, including requirements governing use of the units for rental by low-income families and affordability of rents, as determined by the Secretary.

The Secretary's authority to make expenditures for grants under this subparagraph shall terminate on September 30, 1994. The Secretary shall, by notice published in the *Federal Register*, establish such requirements as may be necessary to carry out the provisions of this subparagraph, including a requirement that States and units of general local government do not earn arbitrage profits from these grants.

(2) For purposes of this subsection—

The term "low-income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

The term "Secretary" means the Secretary of Housing and Urban Development.

The term "State" has the meaning given such term in section 104(2) of the Cranston-Gonzalez National Affordable Housing Act, including any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the State with regard to paragraph (1)(A).

The term "unit of general local government" has the meaning given such term in section 104(1) of the Cranston-Gonzalez National Affordable Housing Act, including any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to paragraph (1)(A).

AMEND THE REQUIREMENT FOR STATE AND LOCAL GOVERNMENT RIGHT OF FIRST REFUSAL

SEC. 102. (a) Section 203(e)(2) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(2) The Secretary, within 60 days of acquiring title to a project, shall notify the unit of general local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the acquisition of such title. Within 60 days of this notice, the local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the local government or designated State agency to substantiate such interest. If the local government or designated State agency

has expressed interest within the 60-day period, and has substantiated such interest if requested, upon approval of a disposition plan for a project, the Secretary shall notify the local government and designated State agency of the terms and conditions of the disposition plan and give the local government or designated State agency 90 days from the date of the notification to make an offer to purchase the project. If the local government or designated State agency does not express interest within the 60-day period, or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.".

(b) Section 203(e)(3) of such Act is amended by striking "The" in the first sentence and inserting "Where the Secretary has given the local government or designated State agency 90 days to make an offer to purchase the project, the".

(c) Section 203(e) of such Act, as amended by subsections (a) and (b), shall apply to projects that are acquired on or after the effective date of this section. With respect to projects acquired before the effective date of this section, the Secretary may apply—

(1) the requirements of sections 203(e)(2) and (e)(3) of such Act as they existed immediately before the effective date of this section; or

(2) the requirements of sections 203(e)(2) and (e)(3) of such Act, as amended by subsections (a) and (b), respectively, if the Secretary gives the local government and designated State agency 60 days to express interest in the project, and for those that express interest within the 60-day period, and substantiate such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

REPEAL STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION

SEC. 103. Section 184 of the Housing and Community Development Act of 1987 is hereby repealed.

DEMONSTRATION: RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROPERTIES OWNED BY HUD

SEC. 104. (a) The Secretary of Housing and Urban Development may carry out a demonstration with up to 50 multifamily properties owned by the Secretary, using the Resolution Trust Corporation (RTC) for the marketing and disposition of the properties. Any such demonstration shall be carried out by agreement of the RTC and the Secretary on such terms and conditions as are acceptable to the RTC and the Secretary. The RTC shall establish policies and procedures for marketing and disposition, subject to review and approval by the Secretary.

(b) The Secretary may waive the requirements of section 203 of the Housing and Community Development Amendments of 1978 and any related requirements, including restrictions on the incomes of families occupying the units and requirements for continued assistance. The Secretary may also waive any other statutory and regulatory requirements that apply to the project and that the Secretary determines are not consistent with the purposes of a demonstration, except that the Secretary may not waive any equal opportunity or nondiscrimination statutory or regulatory requirements or procedures.

(c) In determining which properties to include in the demonstration, the Secretary shall take into consideration the size of the inventory of properties owned by the Secretary in the locality and such other factors as the Secretary determines are appropriate.

(d) The Secretary shall reimburse the RTC for the direct costs associated with the demonstration, including the costs of administration and marketing, property management, and any repair and rehabilitation. The Secretary may use proceeds from the sale of the properties to reimburse the RTC for its costs.

(e) The demonstration under this section shall—

(1) be approved personally by the Secretary;

(2) taken as a whole over the life of the demonstration, not result in higher costs to the Federal government;

(3) be generally consistent with the overall purposes of the program or programs under which the waiver is granted;

(4) be the subject of an evaluation plan for which funding is obligated or set aside at the same time the demonstration is approved and which will be carried out by an independent party; the evaluation shall include an assessment of the impact and effectiveness of (A) any requirements waived pursuant to subsection (b), and (B) any differences between the property disposition procedures of the RTC and the Secretary; and

(5) be consistent with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(f) In approving the demonstration under this section, the Secretary may impose such requirements as the Secretary considers to be appropriate to further its purposes.

(g) The RTC shall submit an annual progress report to the Secretary. The Secretary shall submit a report to Congress within one year after completion of the demonstration, describing the results of the demonstration and making any recommendations for legislation.

(h) The demonstration under this section shall not extend beyond the termination date of the Resolution Trust Corporation.

(i) There is authorized to be appropriated $1,000,000 for the evaluation of the demonstration under this section.

AUTHORIZE CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS

SEC. 105. (a) Section 537 of the National Housing Act is amended—

(1) in subsection (b)(1), by inserting after "mortgagor" the second place it appears the following: "or general partner of a partnership mortgagor";

(2) in the heading to subsection (c), by deleting "VIOLATIONS OF REGULATORY AGREEMENT" and inserting in lieu thereof the following: "OTHER VIOLATIONS";

(3) in subsection (c)(1)—

(A) by deleting "any mortgagor of property" and all that follows through "as follows:" and inserting in lieu thereof the following:

"(A) any mortgagor of property that includes five or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

(B) the general partner of a partnership mortgagor; (C) any agent employed to manage the property that has an identity of interest with the general partner; or (D) any independent fee management entity, under contract with the mortgagor or general partner of a partnership mortgagor, that fails to notify the Secretary, as required by the Secretary, that it has been instructed by the mortgagor or general partner of a partnership mortgagor to engage in activities that are contrary to regulations and requirements of the Secretary. A penalty may be imposed under this section for knowingly and materially taking any of the following actions:";

(B) by adding after subparagraph (L) the following new subparagraphs:

"(M) Failure, when there is adequate project income available, to maintain the premises, accommodations, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary.

"(N) Failure, by a general partner of a partnership mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.";

(C) in the last sentence, by deleting "of such agreement" and inserting in lieu thereof the following: "of this subsection"; and

(D) by redesignating subparagraphs (A) through (N) as clauses (i) through (xiv), respectively;

(4) in subsection (d)(1)(B), by inserting after "mortgagor" the following:", general partner of a partnership mortgagor, or agent employed to manage the property or independent fee management entity as described in subsections (c)(1)(C) and (D), respectively,";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting in lieu thereof the following: "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" both times that it appears the following: ", general partner of a partnership mortgagor, or agent employed to manage the property or independent fee management agent as described in subsections (c)(1)(C) and (D), respectively,"; and

(7) by amending the heading to read as follows: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND MANAGING AGENTS".

(b) The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

EXTEND HUD REVIEW PERIOD FOR APPROVAL OF MANAGEMENT IMPROVEMENT AND OPERATING PLANS

SEC. 106. Section 201(d)(6) of the Housing and Community Development Amendments of 1978 is amended by striking "30" and inserting "120".

USE OF FLEXIBLE SUBSIDY IN PRESERVATION PROJECTS

SEC. 107. (a) USE OF ASSISTANCE.—Section 210(k) of the Housing and Community Development Amendments of 1978 is amended by adding at the end thereof the following new paragraph:

"(4) In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987. The Secretary may make such assistance available on a noncompetitive basis.".

(b) CERTAIN UNINSURED PROJECTS.—Section 201(n)(2) of such Act is amended by inserting a comma immediately after "insured mortgages in force" and the following: "projects for which the Secretary holds the mortgage, and projects with respect to which the Secretary makes interest reduction payments

under section 236(o) of the National Housing Act".

DELETE REQUIREMENT TO REDUCE INTEREST RATES TO AVOID FORECLOSURE ON ASSIGNED MORTGAGES

SEC. 108. Section 7(i)(5) of the Department of Housing and Urban Development Act is amended by striking out the first semicolon, and all that follows through "as determined by the Secretary".

TITLE II—ENHANCE PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

FREEZE FEES FOR ADMINISTRATION OF THE CERTIFICATE AND VOUCHER PROGRAMS

SEC. 201. Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937, other applicable law, and any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under sections 8(b) and 8(o) of such Act for Federal fiscal year 1994 shall be based on the fair market rents for Federal fiscal year 1993. However, the Secretary may increase the fee in accordance with the third sentence of section 8(q)(1) and sections 8(q)(2)(ii) and (iii) of such Act.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING

SEC. 202. (a) SEVERELY DISTRESSED PUBLIC HOUSING.—Section 24 of the United States Housing Act of 1937 is amended as provided by this subsection.

(1) DELETE REQUIREMENT FOR DESIGNATION OF ELIGIBLE PROJECTS.—(A) Subsection (b) is hereby repealed.

(B) Subsection (i)(2) is hereby repealed and the following paragraphs redesignated accordingly.

(2) INCREASE PLANNING GRANT DOLLAR CAP.—Subsection (c)(2) is amended by striking "$200,000" and inserting "$500,000".

(3) PLANNING GRANT ELIGIBLE ACTIVITIES: COMMUNITY SERVICE.—Subsection (c)(3) is amended by inserting the following new subparagraph after subparagraph (D) and redesignating the following subparagraphs accordingly:

"(E) planning for community service activities to be carried out by residents, other members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);".

(4) PLANNING GRANT APPLICATION: COMMUNITY SERVICE.—Subsection (c)(4) is amended by inserting the following new subparagraph after subparagraph (C) and redesignating the following subparagraphs accordingly:

"(D) a description of the planning activities for community service to be carried out by residents, other members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community;".

(5) IMPLEMENTATION GRANT ELIGIBLE ACTIVITIES.—

(A) Subsection (d)(2) is amended by inserting the following new subparagraphs after subparagraph (D) and redesignating the following subparagraphs accordingly:

"(E) community service activities to be carried out by residents, other members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);

"(F) replacement of public housing units, when required under section 18, through the use of implementation grant funds for the development of replacement units provided through the methods permitted under section 18(b)(3);".

(B) Subsection (d)(2)(K), as redesignated by subparagraph (A) of this paragraph, is amended by—

(i) striking "than 15 percent" and inserting "than 20 percent"; and

(ii) inserting before the period the following: "and provided that an amount equal to 15 percent of the amount of any grant under this subsection used for support services shall be contributed from non-Federal sources (this contribution shall be in the form of cash, administrative costs, and the reasonable value of in-kind contributions and may include funding under title I of the Housing and Community Development Act of 1974)".

(6) IMPLEMENTATION GRANT APPLICATIONS: COMMUNITY SERVICE.—Subsection (d)(3) is amended by inserting the following new subparagraph after subparagraph (C) and redesignating the following subparagraphs accordingly:

"(D) a description of the community service activities to be carried out by residents, other members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community;".

(7) PLANNING GRANT AND IMPLEMENTATION GRANT SELECTION CRITERIA: NATIONAL GEOGRAPHIC DIVERSITY.—Subsections (c)(5) and (d)(4) are each amended by—

(A) striking subparagraph (E) and redesignating the following subparagraphs accordingly; and

(B) inserting at the end the following new flush matter:

"The Secretary may select a lower-rated, approvable application over a higher-rated application to increase the level of national geographic diversity of applications approved under this section.".

(8) IMPLEMENTATION GRANT SELECTION CRITERIA.—Subsection (d)(4)(D) is amended by striking "the potential of the applicant for developing a successful and affordable" and inserting "the quality of the proposed".

(9) DEFINITIONS.—(A) Subsection (h)(5) is amended to read as follows:

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project or a building in a project that—

"(A) requires major redesign, reconstruction, or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

"(B)(i)(I) is occupied predominantly by families with children which have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

"(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more; and

"(C) cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds; and

"(D) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.".

(B) Subsection (h) is amended by adding the following new paragraphs at the end thereof:

"(6) COMMUNITY SERVICE.—The term 'community service' means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served, including opportunity for the upward mobility of participants providing the community service, through completion of education requirements, job training, or alternative methods of developing skills and job readiness.

"(7) SUPPORT SERVICES.—The term 'support services' includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the project, such as literacy training, job training, day care, and economic development, and may include such activities for residents of the neighborhood.".

(b) CONFORMING AMENDMENT.—The first sentence of section 25(m)(1) of the United States Housing Act of 1937 is amended to read as follows:

"The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a troubled public housing agency.".

(c) COMPREHENSIVE GRANT AND DEVELOPMENT GRANTS FOR REPLACEMENT HOUSING.—(1) Section 5(a)(2) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof:

"In providing assistance under this paragraph, the Secretary may give priority to public housing agencies that use comprehensive grants under section 14(k) for replacement housing under section 18(b)(3)(A)."

(2) Section 14 of such Act is amended by adding the following new subsection at the end thereof:

"(q) The Secretary may authorize a public housing agency to use assistance allocated to it for use under subsection (e) for the development of additional housing under this Act, in accordance with requirements applicable to the development of public housing, to provide replacement housing as required by section 18.".

(d) USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—(1) Section 18(b)(3)(A) of such Act is amended—

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting the following new clause immediately after clause (v):

"(vi) the use of five-year tenant-based assistance under section 8(b) or (o) if—

"(I) the project has been vacant for a period of at least five years;

"(II) the proposed demolition is necessary for revitalization of the remaining units in the project; or

"(III) demolition of the entire project is proposed and some or all of the units will be replaced on the site; or".

(2) Section 18(b)(3) of such Act is amended—

(A) in subparagraph (A)(v), by striking "to the extent available" and all that follows through "5 years"; and

(B) in subparagraph (C), by adding the following new flush matter at the end thereof:

"*Provided*, That notwithstanding the other provisions of this subparagraph, if the plan involves (I) a demolition described in subparagraph (A)(vi) or (II) the demolition of 200

or more units, tenant-based assistance under section 8 (b) or (o) may be approved if the public housing agency determines, in accordance with such requirements as the Secretary may prescribe, that such use is feasible and appropriate to meeting the low-income housing needs in the community;".

(3) Section 18(c)(2) of such Act is amended by inserting before the period at the end of the first sentence a comma and the following: "except for amounts to be provided from the allocation of comprehensive grant assistance to the public housing agency under section 14".

(e) NEED FOR REPLACEMENT HOUSING.—The flush matter at the end of section 18(b)(3) of such Act is amended—

(1) by striking "except that," and inserting in lieu thereof the following: "except that (1)"; and

(2) by inserting immediately before the period at the end thereof the following:

", and (2) a public housing agency may demolish public housing dwelling units without providing an additional unit for each unit to be demolished if there is no need for additional assisted housing in the community, as determined in accordance with criteria determined by the Secretary."

(f) REPLACEMENT HOUSING OUTSIDE THE JURISDICTION OF THE PHA.—Section 18(b)(3) of such Act is amended by inserting the following new subparagraph after subparagraph (C), and redesignating the following subparagraphs accordingly:

"(D) may provide that all or part of such additional dwelling units may be located outside the jurisdiction of the public housing agency (the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location ('alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A) of this paragraph;

"(II) complete the plan on schedule in accordance with subparagraph (F) of this paragraph;

"(III) meet the requirements of subparagraph (G) of this paragraph and the maximum rent provisions of subparagraph (H) of this paragraph; and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located.".

DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT

SEC. 203. (a) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—(1) IN GENERAL.—Section 3 of the United States Housing Act of 1937 is amended by striking the undesignated paragraph at the end thereof and inserting in lieu thereof the following new subsection:

"(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—Notwithstanding any other provision of law, the rent payable under subsection (a) for any public housing unit by a family whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years may not be increased as a result of the increased income due to such employment for a period of 18 months, beginning with the commencement of employment.".

(2) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by paragraph (1), any resident of public housing participating in the authority contained in such undesignated paragraph immediately before its amendment by this section shall continue to be governed by such authority.

(b) REPEALER.—Section 957 of the Cranston-Gonzalez National Affordable Housing Act is hereby repealed.

CEILING RENTS BASED ON REASONABLE RENTAL VALUE

SEC. 204. (a) Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the provisions of section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a). The notice shall also invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

Subtitle B—Office of Community Planning and Development Economic Revitalization Initiative

SEC. 210. (a) ECONOMIC REVITALIZATION GRANTS.—(1) Section 108(a) of the Housing and Community Development Act of 1974 is amended by striking the second sentence and inserting in lieu thereof the following:

"A guarantee under this section (including a guarantee combined with a grant under subsection (q)) may be used to assist a grantee in obtaining financing, only if the grantee has made efforts to obtain the financing without the use of the guarantee (and, if applicable, the grant) and cannot complete the financing consistent with the timely execution of the proposed activities and projects without the guarantee (or, if applicable, the grant).".

(2) Section 108 of such Act is further amended by adding at the end thereof the following new subsection:

"(q)(1) the Secretary is authorized to use amounts deobligated under section 119 to provide grants in accordance with this subsection for economic revitalization projects to eligible public entities (units of general local government) in connection with notes or other obligations guaranteed for such entities under this section.

"(2) by regulation, the Secretary shall prescribe the terms and conditions of these grants (in accordance with this title, except as otherwise permitted by this subsection), including guidelines related to economic revitalization projects eligible for grants, the amount of grant funds to be provided for specific economic revitalization projects applied for, and requirements applicable to the use of the grant and the guaranteed loan proceeds by the recipient. The regulations shall at a minimum implement the provisions specified in this subsection.

"(3) The proceeds of the guaranteed loan, and the grant under this subsection, shall be used to finance economic development activities and projects eligible under subsection (a) and specified in the approved application. In this subsection, the term "economic revitalization projects" refers to such eligible economic development projects and activities.

"(4) If the eligible public entity proposes a grant under this subsection, it shall submit its request to HUD, in the form prescribed by HUD, with or as part of its application for loan guarantee assistance under this section.

"(5) To the extent funds are available, grants under this subsection shall be approved on a first-come, first-served basis.".

(3) Section 119(o) of such Act is amended by striking "shall be" and all that follows up to the period and inserting in lieu thereof the following: "shall, as determined by the Secretary, be added to amounts appropriated under section 103 or be used to provide grants under section 108(q)".

(4) Title I of such Act is amended—

(A) in the second sentence of section 101(c), by striking "and, if applicable, the funds received as a result of a guarantee under section 108," and by inserting in lieu thereof "(including any such funds used to make payments on a loan guaranteed by the Secretary under section 108) and, if applicable, any grant received under section 108(q)," and

(B) in section 104(b)(3), by striking "and, if applicable, as a result of a guarantee under section 108," and by inserting in lieu thereof "(including any such funds used to make payments on a loan guaranteed by the Secretary under section 108) and, if applicable, any grant received under section 108(q),".

(b) SECTION 108 LOAN GUARANTEES FOR COLONIAS.—The first sentence of section 108(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "or" immediately after "section 105(a);"; and

(2) by inserting immediately before the period at the end thereof the following: "; or (5) activities under section 105(a)(2) with respect to colonias under section 916 of the Cranston-Gonzalez National Affordable Housing Act".

(c) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(r)(1) The Secretary is authorized, upon terms and conditions as the Secretary deems appropriate, to guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as shall—

"(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary, and

"(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

"(2) To the same extent as provided in subsection (f), the full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee by the Secretary under this subsection.

"(3) In the event the Secretary pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(4) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate,

"(B) the right to enforce by any means deemed appropriate by the Secretary any such contract, and

"(C) the Secretary's ownership rights, as applicable, in notes, certificates or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section are offered.".

HOME INVESTMENT PARTNERSHIPS

SEC. 211. (a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end thereof the following: ", and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Sections 214(1) (A) and (B) of such Act are amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place it appears and inserting in lieu thereof the following: "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by,".

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of such Act is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) SIMPLIFY RESALE PROVISIONS.—Section 215(b)(4)(B) of such Act is amended by striking "subsection" and inserting in lieu thereof "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—

(1) Sections 216(10) and 217(b)(4) of such Act are hereby repealed.

(2) Section 217(b)(3) of such Act is amended—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows up to the period and inserting in lieu thereof the following:

"jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or greater and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)".

(3) Section 216 of such Act is amended—

(A) in paragraph (3), by striking "Except as provided in paragraph (10), a jurisdiction" in the first sentence and inserting in lieu thereof "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—(1) HOME PROGRAM.—The first sentence of section 218(d) of such Act is amended by inserting immediately after "providing certification" the following:

"that it is following a current housing affordability strategy which has been approved by the Secretary in accordance with section 105, and".

(2) HOMELESS ASSISTANCE PROGRAMS.—(A) IN GENERAL.—Section 401 of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.—(a) REQUIREMENT TO FOLLOW A CHAS.—Assistance may be made available under subtitle B to metropolitan cities, urban counties, and States receiving a formula amount under section 413, only if the jurisdiction certifies that it is following a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(b) REQUIREMENT FOR CONSISTENCY WITH CHAS.—Assistance may be made available under this title only if the application contains a certification that the proposed project or activities are consistent with the housing strategy of the State or unit of general local government in which the project is located. The certification shall be from the public official responsible for submitting the strategy for the jurisdiction.".

(B) CONFORMING CHANGES.—Title IV of such Act is amended by striking sections 426(a)(2)(F), 434, (a)(10), and 454(b)(9).

(g) SIMPLIFY HOME MATCHING REQUIREMENTS.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdictions's HOME Investment Trust Fund in that fiscal year. This contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) DELETE SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of such Act is amended—

(1) by striking the section heading and inserting in lieu thereof the following: "AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—" and redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(4) in subsection (a), as redesignated by paragraph (3), by striking the second sentence.

(i) HOME ENVIRONMENTAL REVIEW AMENDMENTS.—Section 288 of such Act is amended—

(1)(A) in the first sentence of subsection (a), by striking out "participating jurisdictions" and inserting in lieu thereof the following: "jurisdictions, Indian tribes, or insular areas"; and

(B) in the first sentence of subsection (b) and in subsection (c)(4), by striking "participating jurisdiction" each place it appears and inserting in lieu thereof the following: "jurisdiction, Indian tribe, or insular area"; and

(2) by inserting at the end of subsection (a) the following new sentences:

"The regulations shall, among other matters, provide for the monitoring of the performance of environmental reviews under this section and, in the discretion of the Secretary, for the provision or facilitation of training for such performance and suspension or termination of the assumption under this section. The Secretary's duty under the foregoing sentence shall not be construed as being in derogation of any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(3) in subsection (d), by striking out "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting in lieu thereof the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

(j) USE OF CDBG FUNDS FOR HOME ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "charges related to" the following:

"(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act and (B)".

(k) PROJECT DELIVERY COSTS.—Section 105(a)(21) of such Act is amended by—

(1) inserting immediately after "housing counseling" the following: "in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act"; and

(2) striking "authorized" and all that follows through "law" and inserting in lieu thereof the following: "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

REDUCE HOPE 3 MATCH REQUIREMENT TO 25%

SEC. 212. Section 443(c) (1) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "33" and inserting "25".

Subtitle C—Community Partnerships Against Crime Compac Program

SEC. 220. (a) CONFORMING PROVISIONS.—(1) Section 5001 of the Anti-Drug Abuse Act of 1988 is amended—

(A) by striking "CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION" and inserting in lieu thereof the following: "CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME";

(B) by striking "CONGRESSIONAL FINDINGS." and inserting in lieu thereof the following: "PURPOSES." and

(C) by adding after "SEC. 5131. AUTHORIZATION OF APPROPRIATIONS." the following: "SEC. 5131. TECHNICAL ASSISTANCE.".

(2) The heading for chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 is amended to read as follows: "CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME".

(b) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—Sections 5121, 5122, and 5123 of the Public and Assisted Housing Drug Elimination Act of 1990 are amended to read as follows:

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Community Partnerships Against Crime Act of 1993'.

"SEC. 5122. PURPOSES.

"The purposes of this chapter are to—

"(1) substantially expand and enhance the Federal government's commitment to eliminating crime in public housing;

"(2) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

"(3) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(4) encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

"(5) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(6) provide training, information services, and other technical assistance to program participants; and

"(7) establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions

of this chapter, may make grants, for use in eliminating crime in and around public and other federally assisted low-income housing projects (1) to public housing agencies (including Indian housing authorities) and (2) using amounts appropriate for fiscal year 1994 only, to private, for-profit and nonprofit owners of federally assisted low-income housing. In designing the program, the Secretary shall consult with the Attorney General.".

(c) ELIGIBLE ACTIVITIES.—Section 5124 of such Act is amended—

(1) by striking "(a) PUBLIC AND ASSISTED HOUSING.—";

(2) by inserting in the introductory material, immediately after "used in", the following: "and around";

(3) in paragraph (3), by inserting immediately before the semicolon the following: ", such as fencing, lighting, locking, and surveillance systems";

(4) by striking paragraph (4)(A) and inserting in lieu thereof the following new subparagraph:

"(A) to investigate crime; and";

(5) in paragraph (6)—

(A) by striking "in and around public or other Federally assisted low-income housing projects"; and

(B) by striking "and" after the semicolon;

(6) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting in lieu thereof "crime"; and

(C) by striking the period at the end and inserting in lieu thereof a colon;

(7) by adding the following new paragraphs after paragraph (7):

"(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community- and problem-oriented policing involving interaction with members of the community on proactive crime control and prevention;"

"(9) youth initiatives, such as activities involving training, education, after school programs, cultural programs, recreation and sports, career planning, and entrepreneurship and employment; and

"(10) resident service programs, such as job training, education programs, and other appropriate social services which address the contributing factors of crime."; and

(8) by striking subsection (b).

(d) APPLICATIONS.—Section 5125 of such Act is amended—

(1) in subsection (a)—

(A) by adding the paragraph designation "(1)" immediately after "IN GENERAL.—";

(B) in the first sentence, by striking ", a public housing resident management corporation,";

(C) in the second sentence, by striking "drug-related crime on the premise of" and inserting in lieu thereof the following: "crime in and around"; and

(D) by adding the following new paragraphs at the end:

"(2) The Secretary shall, by regulation issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have especially severe crime problems. Any public housing agency within this class may submit an application for a one-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed for a period not exceeding the four subsequent years: *Provided*, That the Secretary finds, after an annual or more frequent performance review, that the public housing agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe.

"(3) Any eligible applicant may submit an application for a grant for a period of up to two years. The Secretary may accord a preference to applications seeking a subsequent grant under this paragraph if the grant is to be used to continue or expand activities assisted under a previous grant under this paragraph and the Secretary finds that the applicant's program under the prior grant is being managed soundly and demonstrates success. Any preferences under the preceding sentence shall not unreasonably prejudice the opportunities of other public housing agencies to be awarded grants under this paragraph.";

(2) in subsection (b)—

(A) in the introductory material, by striking "subsections (c) and (d)" and inserting in lieu thereof "subsections (a) and (c)";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting in lieu thereof the following: "crime problem in and around";

(C) in paragraph (2), by inserting immediately after "crime problem in" the following: "and around"; and

(D) in paragraph (4), by inserting after "local government" the following: ", local community-based non-profit organizations, local resident organizations that represent the residents of neighboring projects that are owned or assisted by the Secretary,";

(3) in subsection (c)(2) by striking "drug-related" the two places it appears; and

(4) by striking subsection (d).

(e) DEFINITIONS.—Section 5126 of such Act is amended by striking paragraphs (1) and (2), and renumbering paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) IMPLEMENTATION.—Section 5127 of such Act is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting in lieu thereof "Housing and Community Development Act of 1993".

(g) REPORTS.—Section 5128 of such Act is amended by striking "drug-related crime in" and inserting in lieu thereof the following: "crime in and around".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 5130 of such Act is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows and inserting in lieu thereof: $265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995.";

(2) in subsection (b)—

(A) by striking "SET-ASIDES" and inserting in lieu thereof "SET-ASIDE";

(B) by striking the first sentence;

(C) by striking "drug elimination";

(D) by striking "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal year 1994"; and

(E) by striking "and 5.0 percent" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(3) by striking subsection (c) and section 520(k) of the Cranston-Gonzalez National Affordable Housing Act.

(i) TECHNICAL ASSISTANCE.—Such Act is further amended by adding at the end thereof the following new section:

"SEC. 5131. TECHNICAL ASSISTANCE.

"Of the amounts appropriated annually for each of fiscal years 1994 and 1995 to carry out this chapter, the Secretary is authorized to use up to $10,000,000, directly or indirectly, under grants, contracts, cooperative agreements, or otherwise, to provide training, information services, and other technical assistance to public housing agencies and other entities with respect to their participation in the program authorized by this chapter. Such technical assistance may include the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing under sections 5143 and 5144 of this Act. The Secretary is also authorized to use the foregoing amounts for obtaining assistance in establishing and managing assessment and evaluation criteria and specifications, and obtaining the opinions of experts in relevant fields.".

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

Correct the Definition of Family in the 1937 Act to Clarify That Families Are Not Required To Include Children

SEC. 301. The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 is amended by—

(1) striking out "means" and inserting "includes"; and

(2) inserting "and" immediately after "children,".

ELIMINATE REQUIREMENT FOR IDENTIFICATION OF CIAP REPLACEMENT NEEDS

SEC. 302. (a) Section 14(d) of the United States Housing Act of 1937 is amended—

(1) by striking paragraph (2); and

(2) in paragraph (4)—

(A) by deleting "and replacements,"; and

(B) by striking ", (2),".

(b) Section 14(f)(1) of such Act is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (D), by striking ", (2),".

APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING

SEC. 303. (a) Section 201(b) of the United States Housing Act of 1937 is amended to read as follows—

"(b) APPLICABILITY OF TITLE I.—Except as otherwise provided by law, the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) The amendment made by subsection (a) shall not affect provisions of the United States Housing Act of 1937 that were made applicable to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority in accordance with section 201(b)(2) of such Act, as it existed before the effective date of this section.

(c) The provisions of sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing authority.

INCREASE THE UNIT THRESHOLD ABOVE WHICH PHAS ARE REQUIRED TO ADOPT PROJECT-BASED ACCOUNTING

SEC. 304. Section 6(c)(4)(E) of the United States Housing Act of 1937 is amended by striking "250" and inserting in lieu thereof "500".

Subtitle B—Multifamily Housing

CORRECT ERRORS IN MULTIFAMILY MORTGAGE LIMITS

SEC. 310. Sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) of the National

Housing Act are each amended by striking "$59,160" and inserting "$56,160".

FHA MULTIFAMILY RISK-SHARING HFA PILOT PROGRAM AMENDMENTS

SEC. 311. (a) Section 542(c) of the Housing and Community Development Act of 1992 is amended—

(1) in paragraph (2)(C), by striking the last sentence and inserting in lieu thereof the following new sentence:

"Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement.";

(2) in paragraph (2)(E)—

(A) by inserting the clause designation "(i)" before the first sentence;

(B) in the first sentence, by inserting after "subsection" the following: ", except as provided in this section,"; and

(C) by adding the following new paragraph (2)(E)(ii):

"(ii) The mortgage shall—

"(I) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe;

"(II) not exceed 40 years from the beginning of amortization; and

"(III) not exceed a loan-to-value or loan-to-replacement cost of 90 percent for profit-motivated owners and 100 percent for non-profit owners.";

(3) by adding the following new subparagraphs at the end of paragraph (2):

"(F) The Secretary, upon request of a qualified housing finance agency, may insure and make commitments to insure under this section any mortgage, advance, or loan otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the housing finance agency will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, cost certification, servicing, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

"(G) Qualified housing finance agencies shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for program review and monitoring purposes.

"(H) Notwithstanding any other provision of this section, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this section shall be operated for transient or hotel purposes. For purposes of this paragraph, the term 'rental for transient or hotel purposes' shall have such meaning as prescribed by the Secretary, but rental for any period less than 30 days shall in any event constitute rental for such purposes.

"(I) No mortgage with respect to multifamily housing may be insured under this section unless—

"(i) the mortgagor certifies under oath that while such insurance remains outstanding, he or she will not rent, or permit the rental of, such housing or any part thereof for transient or hotel purposes; and

"(ii) the housing finance agency has entered into such contract with the mortgagor as the Secretary deems necessary to enable the housing finance agency to prevent or terminate any use of such property or project for transient or hotel purposes while the mortgage insurance remains outstanding."; and

(4) by adding at the end thereof the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—(A) NEPA.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with commitments to insure mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for commitments to insure mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection if the States or units of general local governments, as designated by the Secretary in accordance with regulations, assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary with respect to the commitment or endorsement of mortgage insurance on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide for monitoring of the performance of environmental reviews under this subparagraph and, in the discretion of the Secretary, for the provision of facilitation of training for such performance and suspension or termination of the assumption under clause (I). The Secretary's duty under the foregoing sentence shall not be construed as being in derogation of any responsibility assumed by a State or unit of general local government with respect to any particular property under clause (I).

"(ii) PROCEDURE.—The Secretary shall approve the commitment to insure subject to the procedures authorized by this paragraph only if, at least 15 days prior to such approval and prior to any commitment or endorsement of mortgage insurance on the property the qualified housing finance agency has submitted to the Secretary a request for such commitment to insure accompanied by a certification of the State or unit of general local government which meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the commitment or endorsement of mortgage insurance on the property which is covered by such certification.

"(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

"(I) be in a form acceptable to the Secretary,

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary,

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i), and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822), the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a qualified housing finance agency to the Secretary that the combination of Federal assistance provided in connection with a property for which a mortgage is to be insured shall not be any more than is necessary to provide affordable housing.

"(10) As used in this section—

"(A) the term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) on a leasehold—

"(I) under a lease for not less than 99 years which is renewable; or

"(II) under a lease having a period of not less than ten years to run beyond the maturity of the mortgage; and

"(B) the term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage; and

"(C) the terms 'unit of general local government' and 'State' mean the same as defined in section 102(a)(1) and (2), respectively, of the Housing and Community Development Act of 1974.".

(b) Section 544(1) is amended to read as follows:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than five rental units on one site. These units may be detached, semi-detached, row houses, or multifamily structures.".

SUBSIDY LAYERING REVIEW

SEC. 312. Section 911 of the Housing and Community Development Act of 1992 is amended by—

(1) striking subsection (a) and inserting in lieu thereof the following:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied in connection with projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a

housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of Federal assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any more than is necessary to provide affordable housing."; and

(2) striking subsection (c) and inserting in lieu thereof the following:

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary may inform the housing credit agency that it may no longer submit certifications of subsidy layering compliance under this section. In such circumstances, the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for affected projects allocated a low income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 shall be carried out by the Secretary.".

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE SECRETARY,

Washington, DC, July 27, 1993.

Hon. DONALD W. RIEGLE, Jr.

Chairman, U.S. Senate, Committee on Banking, Housing, and Urban Affairs, Washington, DC.

Subject: "The Housing and Community Development Act of 1993."

DEAR MR. CHAIRMAN: I am pleased to transmit to you the Housing and Community Development Act of 1993. For the past several months, the Department has been working with OMB, key Congressional Committees and various housing groups on the development of this authorization bill.

This legislation is principally designed to provide the Department with the tools and authority to dispose of its growing inventory of FHA multifamily properties. Since 1988, the HUD-owned multifamily inventory has increased from 62 projects to 170, representing some 29,000 units. This growth is due to two factors: an overly restrictive law that requires HUD to sell property with long-term rental assistance and the absence of adequate funding to pay for such assistance.

The result is disposition gridlock, HUD is forced to manage and rehabilitate projects, a task for which it is not well organized or staffed. Holding costs are substantial, costing the Department some $254 million a year. Most importantly, life for tenants in many of these projects is characterized by deteriorating physical conditions.

This legislation would make a series of changes to existing law, relieving the most onerous statutory restrictions as well as making the current disposition process more flexible. The Department strongly believes that these changes—by enabling the expeditious disposition of properties—will help stabilize neighborhoods, preserve affordability and minimize cost to the federal government.

This legislation would also remove statutory impediments that currently inhibit state and local agencies, community groups and tenants in their implementation and use of HUD's programs. The bill would, for example:

Create incentives to work in public housing by changing existing rent rules;

Promote economic and neighborhood revitalization through improved access to the Section 108 Loan Guarantee program;

Merge the Department's two severely distressed public housing programs;

Simplify key elements (matching requirements, resale provisions, funding thresholds) of the HOME program;

Encourage community strategies to combat crime in neighborhoods through the Community Partnerships Against Crime (COMPAC) program; and

Freeze the base used to calculate administrative fees under the section 8 program.

Finally, the legislation would make a series of technical corrections to provisions in the Housing and Community Development Act of 1992 and other recent housing authorization laws.

A section-by-section explanation and justification accompanies this letter and more fully sets forth the contents of the bill.

The Housing and Community Development Act of 1993 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). The Office of Management and Budget estimates that the bill would increase direct spending by $200–$400 million and increase, receipts by $1200–$1600 million in FY 1994. In each of FYs 1995–1998, the bill would have a net pay-as-you-go effect of zero. Thus, the net deficit effect of the bill would be to decrease the deficit by $800–$1400 million in FY 1994.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

HENRY G. CISNEROS.

GENERAL SUMMARY OF THE LEGISLATION

The Housing and Community Development Act of 1993 is designed to achieve three primary objectives. First, the bill would provide the Department with the tools and authority to address its most pressing management problem—the explosive growth of FHA's multifamily inventory. Second, the bill would provide flexibility to state and local agencies, community groups and tenants by removing statutory impediments from HUD's programs. Examples of such program improvements include:

Creating incentives to work in public housing by changing existing rent rules;

Promoting economic and neighborhood revitalization through improved access to the Section 108 Loan Guarantee program;

Merging the Department's two severely distressed public housing programs;

Simplifying key elements (matching requirements, resale provisions, funding thresholds) of the HOME program;

Encouraging community strategies to combat crime in neighborhoods through the Community Partnerships Against Crime (COMPAC) program; and

Freezing the base used to calculate administrative fees under the section 8 program.

Finally, the bill would make a series of technical corrections to provisions in the Housing and Community Development Act of 1992 and other recent housing authorization laws.

DETAILED SUMMARY OF THE BILL

TITLE I—FHA MULTIFAMILY REFORMS

The management and disposition of HUD's multifamily inventory is the most pressing problem facing the Department today. Since 1988, the HUD-owned multifamily inventory has increased from 62 projects to 170, representing some 29,000 units. This growth is due to two factors: an overly restrictive law that requires HUD to sell property with long-term rental assistance and the absence of adequate funding to pay for such assistance.

The result is disposition gridlock. HUD is forced to manage and rehabilitate projects, a task for which it is not well organized or staffed. Holding costs are substantial, costing the Department some $254 million in 1992. Most importantly, many of these projects are in deteriorated physical condition—thus impairing the quality of life for residents.

This legislation would make a number of changes to existing law. Specifically, the bill would:

Limit the subsidy requirements for the disposition of both the subsidized and unsubsidized housing stock to protect assisted tenants living in these developments;

Provide state and local governments an opportunity to express interest in properties at an early stage in the disposition process;

Provide greater flexibility in the use of both project- and tenant-based rental assistance and rent restrictions to ensure continued affordability;

Give HUD the flexibility to dispose of properties in ways that reduce large concentrations of very low-income families as well as achieve purposes other than rental housing (e.g. homeless shelters, social service facilities);

Enable HUD to enter into effective partnerships with state housing finance agencies for the creative disposition of these properties; and

Provide funds to implement a $400 million one-year program of project rehabilitation grants to states and localities to preserve FHA-acquired housing as an affordable source.

The legislation would also create a Resolution Trust Corporation (RTC) Disposition Demonstration to allow RTC to market and dispose of HUD-owned multifamily properties. This demonstration would use RTC's proven methods of working with local governments and non-profit organizations to dispose of property and adopt RTC's disposition rules, such as targeting and subsidy requirements.

In addition, the bill would close a loophole in HUD's existing authority to impose civil money penalties on participants in FHA's multifamily programs. Current law only permits HUD to impose penalties on multifamily mortgagors. This authority has had little effect since the sole assets of most mortgagors are the properties themselves. The bill would enable HUD to impose penalties on the general partners and certain managing agents of multifamily mortgagors, thus enhancing the Department's ability to enforce compliance with contractual agreements and other requirements.

TITLE II—ENHANCING PROGRAM FLEXIBILITY

Subtitle A: Office of Public and Indian Housing

Rent Rules Reform

Over the past several decades, federal policies have transformed public housing into "warehouses for the very poor". Various requirements and practices have led to the concentration of very low-income families in dense, physical settings as well as discouraged residents from working. The creation of stable, healthy communities—the goal of the public housing program—has, in effect, been impeded by the federal government.

The rules governing public housing rents, in particular, have played a negative role in the building of stable communities. The current "30 percent" rent rule—which requires residents to pay 30 percent of their adjusted

income for rent—provides a disincentive to work. The rule penalizes tenants who try to move from welfare dependency to self-sufficiency. Further, it forces working families to leave public housing since the tenants are charged more than the units are worth.

Current policies on ceiling rents, which are designed to retain working class families in public housing, also contribute to the over concentration of the poor in public housing. These rents are now set too high relative to market value, thereby driving working families away from these developments.

The bill would revise existing law to "make work pay" for unemployed residents living in public housing developments as well as enable working families to remain residents. These changes would:

Exclude for 18 months the earned income of public housing residents who obtain employment; and

Establish ceiling rents no lower than the reasonable rental value of the unit to improve the economic mix in housing developments.

Revitalization of Severely Distressed Public Housing

The bill would merge the Department's two separate programs—HOPE VI and Section 24—that are aimed at revitalizing distressed public housing developments. Key elements of the merger proposal include:

Deleting the requirement that the Secretary designate "severely distressed" projects;

Increasing the planning grant dollar cap from $200,000 to $500,000;

Requiring grant applicants to include community service activities in their proposals;

Deleting the requirement for "national geographic diversity" among applicants; and

Giving PHAs and IHAs more flexibility in planning for the future of their stock by making changes to demolition and replacement requirements in section 18.

Freezing of Administrative Fees

The bill would freeze the base used to calculate administrative fees under the section 8 rental assistance program. This freeze would be a transitional measure, designed to maintain the status quo until the Department reforms the current system for calculating administrative fees.

Subtitle B: Community Planning and Development

Economic Revitalization Initiative

Communities across the nation need assistance to spur economic development, thereby creating jobs and generating growth and opportunities for numerous Americans. The Section 108 Loan Guarantee program, authorized at $2 billion, is designed to help small and large communities achieve this goal of economic revitalization. The use of Section 108 program funds has fallen short of the authorized level, however, because of the mandate that localities pledge a future stream of block grant allocations as security. This initiative would authorize the use of UDAG recaptures (currently used primarily to fund technical assistance and training of HUD staff) as grants to reduce the risk to localities using the program. These grants would:

Enable eligible Section 108 loan guarantee recipients to establish loan less reserves to protect their future stream of block grant awards;

Provide interest-rate or start-up reserves to facilitate projects such as micro-enterprise loans and neighborhood revitalization; and

Enable communities to tap the existing $2 billion in Section 108 loan guarantee authority, thereby leveraging additional private moneys as well.

The use of existing resources means that there would be no additional cost to the taxpayers to generate this expanded level of economic activity. The proposal would also facilitate the pooling of notes—thereby lowering the interest rate on loans guaranteed through the Section 108 program—by giving HUD authority to guarantee trust certificates or other obligations.

HOME Amendments

The HOME program was designed in 1990 to create a flexible partnership between local, state and federal governments to better respond to the Nation's affordable housing crisis. The implementation of HOME has been slow since the program continues to be burdened with excessive regulatory and statutory requirements.

The bill would improve the effectiveness and timeliness of the HOME program by:

Permitting State instrumentalities to operate the HOME program, thereby allowing State Housing Finance Agencies to administer HOME directly rather than as subrecipients;

Simplifying resale provisions to allow for the amounts recaptured upon the resale of a homeowner property to be used immediately for any eligible HOME purpose;

Simplifying the calculation of program-wide income targeting for rental units by counting units assisted instead of funds invested;

Reducing the match for new construction activities from 30 percent to 25 percent, thereby reducing the administrative burdens on both HUD and participating jurisdictions and establishing a uniform match for all HOME affordable housing;

Stabilizing HOME funding thresholds so that participating jurisdictions would be assured continual funding;

Removing the requirement that low-income homebuyers must also be first-time homebuyers; and

Improving administration of HOME and CDBG by conforming their environmental review requirements as well as other administrative requirements.

Subtitle C: Community Partnership Against Crime (COMPAC)

The Public and Indian Housing Drug Elimination Program (PHDEP) was developed in 1988 to help local agencies combat drug trafficking in public and Indian housing developments. To date, the program has been successful in leveraging increased law enforcement through contracts negotiated by the housing authorities.

The Community Partnership Against Crime (COMPAC) program is designed to expand and improve upon the PHDEP program in four primary ways. First, COMPAC would expand the focus of assistance to include all criminal activity, not just drug-related activity. Second, COMPAC would expand eligible activities to include community policing programs, youth initiatives (e.g., youth sports programs, anti-gang activities) and resident services. Third, COMPAC would provide greater certainty in funding to those PHAs that face serious crime problems and can demonstrate program success. Finally, the revised program would place greater emphasis on promoting community involvement and comprehensive, long-term strategies and fostering partnerships between PHAs, tenants, and neighborhood organizations.

COMPAC is authorized at $265 million in FY 1994, an increase of $90 million over FY 1993 funding, and $325 million in FY 1995.

TITLE III—TECHNICAL AND OTHER AMENDMENTS

The bill makes technical amendments to the Cranston-Gonzalez National Affordable Housing Act of 1990 and the Housing and Community Development Act of 1992 to provide for greater effectiveness and flexibility in other HUD programs and administrative capacities. Some of these changes include:

Correcting the definition of "family" in the 1937 Act to clarify that families are not required to include children;

Eliminating the requirement for PHAs to identify CIAP replacement needs;

Applying public housing amendments to Indian housing;

Correcting errors in the FHA multifamily mortgage limits;

Correcting errors in the FHA multifamily risk-sharing program which prevent it from being implemented; and

Clarifying the performance of subsidy layering reviews.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT EXPLANATION AND JUSTIFICATION FOR THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1993

TITLE I—FHA MULTIFAMILY REFORMS

Multifamily property disposition

Section 101 would make a number of changes to section 203 of the Housing and Community Development Amendments of 1978 in order to reform and make more efficient the multifamily property disposition program. Section 203 governs the disposition of multifamily properties, and among other things:

Establishes preservation goals for multifamily rental properties owned by HUD and for certain assigned properties;

Sets forth subsidy requirements for units being sold at foreclosure and by HUD;

Differentiates between subsidy requirements for subsidized projects and unsubsidized projects;

Mandates 15-year section 8 project-based subsidy for most cases, but also allows other mechanisms which would preserve projects for low- and moderate-income use for 15 years.

The Department of Housing and Urban Development has large and growing inventories of HUD-held mortgages in foreclosure and HUD-owned projects. Because current law requires HUD to provide 15-year project-based section 8 housing assistance payments for all units in subsidized projects and all units occupied by low- and moderate-income tenants in unsubsidized projects (with minor exceptions), HUD would need $7 billion in 15-year section 8 budget authority between FY 1994 and 1998 to reduce its backlog of projects for sale, so that after FY 1998 the inventory would consist only of the projects acquired the year before.

HUD received only $93 million in section 8 budget authority for multifamily property disposition in FY 1993, and it is projected to receive $1.8 billion between FY 1994 and 1998. With this level of funding and without any legislative changes, HUD could expect the number of owned projects and projects in foreclosure to increase from 444 at the beginning of FY 1993 to 742 at the end of FY 1998.

The proposed amendments would address this problem. In general, the changes present statutory amendments to revise subsidy requirements to protect at least the assisted tenants receiving project-based assistance in subsidized and unsubsidized properties. For units not receiving assistance, HUD would be authorized to employ rent restrictions and voucher assistance to protect tenants and facilitate the sale of projects.

With these changes, HUD could take significant steps to eliminate its property disposition backlog by FY 1998 within current budget realities. HUD is not organized or staffed to manage a large inventory of rental housing projects. Selling these assets would benefit the properties and communities in which they are located and free HUD's staff to concentrate upon default prevention.

These legislative changes continue to reflect two commitments important to Congress and to HUD:

They preserve the majority of subsidized rental housing using project-based section 8 assistance; and

They continue HUD's obligation to provide housing assistance for units and tenants already receiving project-based assistance.

Finally, HUD will be able to reduce its property disposition backlog faster and realize additional benefits of private investment in the form of reduced holding costs, reduced property deterioration, and improved neighborhood vitality.

Treatment of Subsidized and Formerly Subsidized Projects

The proposal would make several revisions to the treatment of the subsidized stock while maintaining the Department's objective of preserving subsidized units for low-income use. Under current law, subsidized projects are defined as those having mortgages insured and assisted under section 221(d)(5) or section 236 of the National Housing Act, receiving rent supplement payments under section 101 of the Housing and Urban Development Act of 1965, having direct loans under section 202 of the Housing Act of 1959 or section 312 of the Housing act of 1964, or receiving housing assistance payments (other than vouchers or certificates) under the United States Housing Act of 1937 for more than 50 percent of their units.

This proposal would remove multifamily projects having direct loans under section 312 from the definition of subsidized project. These projects were located in low- and moderate-income neighborhoods, but lacked the strict income targeting and rent regulation characteristic of the other projects defined as subsidized. Treating these projects as unsubsidized would increase the speed and reduce the cost of selling them.

The proposal also would rearrange the definition of subsidized project found in current section 203(i) to better count for subsidies used to partially (as well as wholly) assist projects. In this regard, Rent Supplement assistance under section 101 of the Housing and Urban Development Act of 1965 would be treated in the same manner as section 8 and section 23 assistance. That is, a subsidized project would be defined as one which receives Rent Supplement, section 8, or section 23 assistance for more than 50 percent of its units. In this way, the three deep rental subsidy programs will be accounted for similarly.

At least all units receiving project-based assistance under Section 8, Section 23, and Rent Supplement in projects having mortgages subsidized under section 221(d)(5), section 236, and section 202 would be sold with 15-year project-based section 8 assistance. Alternative treatment is proposed for those units which do not receive such assistance. For these units, HUD would be required to sell the units with rent restrictions on them, in order to maintain them as low-income housing at affordable rents for a period of at least 15 years.

This approach is designed to respond the realities of limited budget resources for property disposition by targeting project-based assistance to at least those units already receiving it and by providing restricted rents, at a level based upon a percentage of median income (flat rents), for other units. Generally, the use of restricted rent levels parallels the rent regulation currently used in those projects and is consistent with other affordable housing programs, such as the tax credit and RTC programs. Rents would be restricted for 15 years at specified levels tied to the median income for the area.

Tenant based assistance could also be used on a discretionary basis to protect income eligible tenants facing hardship. Vouchers could be made available to tenants with income at 50 percent of median for the area or below to assist them to stay in the unit or move to another.

For those projects which are subsidized by virtue of receiving housing assistance for more than 50 percent of their units, at least all units covered by project-based assistance under Rent Supplement, section 8, or section 23 at the time of foreclosure would be subsidized with 15-year project-based section 8 assistance. No other subsidy requirements would be established, although vouchers could be made available on a discretionary basis for hardship cases.

The proposal is a major departure from current law, and limits HUD's obligation to provide long-term expensive project-based subsidies to at least those units already receiving them. Where feasible, rent restrictions will be used to preserve the balance of units in projects with subsidized mortgages, and this approach would be subsidized through the General Insurance Fund.

In projects which are partially subsidized, and for which there will no longer be any requirement to assist eligible tenants residing in them, the Department expects to encourage income mix if feasible and to employ vouchers for very low-income households on a discretionary basis for hardship cases. Many of the eligible tenants are paying market rent without any subsidy at the current time.

Treatment of Unsubsidized and Formerly Unsubsidized Projects

The proposal would also revise the procedure for subsidizing units and tenants in unsubsidized or formerly unsubsidized projects. Unsubsidized projects are market-rate rental projects, such as those having mortgages insured under section 207 or section 221(d)(4) of the National Housing Act and those receiving section 8 rental assistance payments for fewer than 50 percent of their units. Under current law, HUD must generally preserve for low-income occupancy all units occupied by households with incomes below 80 percent of area median income.

In general, the proposal provides project-based section 8 assistance with a five-year term to those units in unsubsidized projects already receiving project-based assistance, but would not provide such assistance to units which were not under an assistance contract. In this way, the disposition program can reflect the original purpose of the project—to serve as unsubsidized rental housing, can result in budget savings, and can move projects onto the private market in a more pragmatic way. The proposal also recognizes the potential for economically integrated projects.

Specifically, projects receiving section 8 New Construction, section 8 Substantial Rehabilitation, section 8 Moderate Rehabilitation, Rent Supplement, Rent Supplement/section 8 conversion contracts, section 8 Property Disposition assistance, and section 23 were all assisted with the intent of expanding and preserving the low-income housing supply, and this intention is preserved under the proposal. All of the units in these projects covered by an assistance contract at the time of foreclosure would receive five-year project-based renewable section 8 assistance.

Projects receiving assistance under the section 8 Loan Management Set-Aside program were assisted with the intent of preventing default rather than expanding the low-income housing supply, and they are treated in a different manner. Units (including vacant units) covered by a section 8 LMSA contract before foreclosure would continue to receive five-year renewable project-based section 8. However, that assistance would be available specifically for those tenants who were residing in the units before foreclosure and to those tenants admitted initially into vacant units after repair and sale of the project. When those tenants moved or were no longer eligible, the assistance would not be passed on to subsequent tenants. The project-based assistance would dwindle until all recipients at the time of foreclosure or sale were no longer in the program. In this manner, current recipients of housing assistance would be protected.

As a result, the proposal would preserve housing assistance for units in unsubsidized projects already receiving project-based assistance, but would end the use of multifamily property disposition as a mandatory vehicle for expanding the supply of existing housing units.

Under the current severe budget constraints, it is inefficient to require the use of section 8 PD as a distribution mechanism to increase the supply of assisted housing. Section 8 PD is not distributed among States and jurisdictions on the basis of need (e.g. using the "fair share" or other formula) or among potential recipients on the basis of selection priorities or waiting lists. In contrast, section 8 PD reaches income-eligible tenants who happen to reside in a project-where the owner has defaulted, and currently entitles residents whose income wouldn't allow them to qualify for vouchers, for example, to be assisted. In addition, many defaulted projects have been concentrated in areas characterized by overbuilding, where there is an adequate supply of low-income housing. To prioritize these areas for the expansion of income-based assistance by use of the current statutory requirement is inefficient and creates an entitlement which since its inception has not been adequately funded.

More Flexibility in Multifamily Property Disposition

Five amendments contained in the Department's proposal are designed to provide more flexibility for HUD to dispose of projects while at the same time taking into account the local housing market and certain other housing assistance needs.

First, section 203(d)(2) of the Housing and Community Development Amendments of 1978 now permits HUD to provide five-year tenant-based instead of 15-year project-based assistance when disposing of unsubsidized projects located in markets with an adequate supply of low-income housing. This proposal would extend this treatment to subsidized projects.

A small number of subsidized projects are located in soft markets where it does not make sense to retain uncompetitive subsidized projects. Under defined circumstances, HUD would have the flexibility to provide vouchers or certificates to eligible

families in these projects. Such a policy would induce the new owner to offer housing services comparable to those offered elsewhere in the rental market, and would prevent project-based subsidy from being used to drain tenants from other projects insured by HUD, causing additional defaults. The factors used in making the decision would be the same as under current law. In addition, the option to use this flexibility in connection with subsidized stock would be limited to 10 percent of the subsidized units in inventory.

Second, section 203(d)(3) of the 1978 Amendments permits HUD to use methods other than section 8 to preserve units as affordable rental housing. This can include write downs or other ways of reducing the price of a project-to make it affordable to low-income use. however, units preserved must remain available to and affordable by low- and moderate-income households for 15 years, and tenants can pay no more than 30 percent of their incomes for rent.

Requiring tenants to pay no more than they would under a section 8 contract without providing section 8 housing assistance payments has made this option of very limited value. Even where there is a significant price reduction, the operating costs of the projects could exceed tenant payment. A purchaser must provide for the risk that all units assisted in this manner could produce zero rent; few have been willing to do so.

This proposal retains the requirement for the project-to remain available and affordable, but provides the Secretary with some discretion on how to meet this test. The proposal deletes the existing rent-to-income ratio requirement, so that alternative methods of ensuring that rents are affordable to eligible tenants may be used. This approach parallels other programs which seek to provide affordable units without income-based subsidy, such as tax credits or the RTC affordable housing program, and which do not contain the limitation on rent as a percentage of income.

Third, the Department's experience has been that although the goals for preserving affordable rental housing have served communities well, there are occasionally instances where the property disposition program prepared by HUD would result in a much better plan if non-rental use could be provided under the statute. Current law effectively restricts property usage to rental housing, although the properties could serve other socially desirable purposes. The proposal would authorize 10 percent of the units in the HUD-owned multifamily inventory to be sold and used for non-rental use, which would include low-income homeownership opportunities, shelters for the homeless, and administrative/office use for housing and other social service providers.

In addition, HUD proposes to allow up to five percent of units owned by the Secretary to be disposed of for purposes other than low-income rental housing when the Secretary, in consultation with the local and/or areawide government, has made a determination that such other use could assist in efforts to reduce minority or low-income concentrations.

There are a number of HUD-owned projects which are located in areas and neighborhoods which have high concentrations of low-income people and often high concentrations of minority households. When HUD sells a subsidized project—or certain unsubsidized projects serving low-income families, HUD is obligated to place project-based subsidies on the units to preserve them for low-income use for 15 years. This action can sometimes reinforce existing concentrations of poor or minority renters by recycling affordable housing in those neighborhoods which may already contain an adequate supply of low-income housing, if not an over concentration of such housing.

The proposal would allow HUD to consult with the local and/or areawide government on the desirability of selling projects for uses other than as low-income rental housing, including any non-residential use and demolition. Deconcentration could be proposed for all, or only a portion, of the units in a development. Consultations would be expected to cover local government or areawide government plans to deconcentrate low-income housing (perhaps contained in the CHAS), the prospective use of the project, the adequacy of the market in which the project-is located to accommodate the existing low-income demand, the availability of comparable opportunities for affordable rental housing elsewhere in the community or area, and the availability of tenant based assistance to assist very low-income tenants to relocate.

In order to facilitate deconcentration and promote housing choice, tenant based subsidy would be provided to all very low-income tenants residing in the project-being sold or demolished. Vouchers and certificates would be made available under the discretionary authority contained in Section 101(d)(1) of the HUD proposal.

Fourth, the proposal would clarify in the Statute that HUD may sell mortgages and loans on unsubsidized and formerly unsubsidized project-without restriction. This is currently permitted under law, but it is desirable to have the authority explicitly stated. In so doing, the Department will reduce the likelihood of delays caused by litigation in connection with any such loan sales.

It is clear to the Department that in order to deal effectively with the portfolio of multifamily projects, steps must be taken to keep projects out of foreclosure. One way to do this is to sell unsubsidized loans where appropriate. This is a time honored portfolio management tool. Unfortunately, HUD has been prevented from using it to its full effect because HUD has been sued on the basis that such sales would deny certain tenants the future subsidy benefits available should the project-become HUD-owned. This amendment would help to prevent such suits. The amendment also is consistent with the approach taken in the proposal for revising the subsidy required for unsubsidized projects. Those revisions prevent tenants from receiving windfall subsidies which they neither received nor needed prior for foreclosure.

Finally, the proposal as a whole reforms the property disposition program by rationalizing its subsidy requirements. Because these requirements are stated as minima, there is no discretionary language which allows the Secretary to use tenant-based subsidy where that might be appropriate. Current and proposed references to tenant-based subsidy are in connection with the section 203(d)(2) treatment of projects in soft market areas, described above. This proposal adds authority for the Secretary to make tenant-based assistance available on a discretionary basis to families in subsidized and unsubsidized projects who otherwise would not be required to received assistance under section 203, as amended. This would be in addition to, and would substitute for, the revised subsidy requirements. It also would be in addition to any other authority to provide tenant-based rental assistance for residents of projects covered by section 203. Language directing the Secretary to include a determination of the condition of the market when making vouchers available is included in order to ensure successful use of the subsidy.

We intend to work with the appropriators to identify savings to the FHA insurance fund directly attributable to the increased disposition of multifamily properties as a result of appropriations for the Section 8 property disposition program. These savings would be used to offset the additional investment in the program. This additional investment is essential to this legislation.

Use of Savings in Mandatory Expenditures For Rehabilitation Grants for the Disposition of Multifamily Projects

Subsection (i) would establish the requirements for use of the savings in mandatory expenditures which will result from the Department's proposed amendments to the subsidy requirements for unsubsidized projects made by this section.

Subsection (i)(1) would provide $400 million in direct spending for grants to States and units of general local government (and their designated agencies or instrumentalities) for the purpose of rehabilitating projects formerly owned by HUD and transferred to those governmental entities. The direct spending provided would be used to rehabilitate and return to the rental housing stock up to 16,000 units affordable to low-income households. Grantees would be required to comply with requirements established by HUD. HUD would be required to establish program requirements by notice published in the Federal Register, including a requirement that grantees do not earn arbitrage profits from these grants. Authority for HUD to make expenditures for grants would terminate on September 30, 1994.

HUD's rapidly growing portfolio of multifamily distressed mortgages and acquired properties is the single largest problem facing the Department. The FHA has experienced a phenomenal growth in the numbers of properties that are owned—or are about to be owned—by the Federal government. This growing problem is further complicated by the large number of mortgages assigned to HUD resulting from owner defaults, and the weakening condition of large numbers of aged, insured loans that have not yet defaulted.

At the end of FY 1992, the Department had 2,612 assigned mortgages and HUD-owned projects, representing 15% of the 17,800 insured multifamily mortgages and projects. This assigned and owned inventory has grown rapidly over the last decade and substantial numbers of assigned mortgages—266 at the end of FY 1992—were in the process of foreclosure. These mortgages in foreclosure will add to the more than 180 projects already foreclosed and in the owned inventory.

As HUD forecloses on mortgages and acquires projects, the owned inventory has grown and exceeds the Departments ability to dispose of the projects, increasing the cost and management burden on the Federal government and adding to the potential for blight and increasing distress in neighborhoods in which the properties are located.

The Department does not have the necessary tools to manage and dispose of these acquired properties and, as a consequence, is absorbing a substantial real cost on these properties—estimated at between $10 and $14 per unit each day they are held in inventory. To a large extent, the Department's ability to dispose of the projects is a consequence of the statutory requirement to preserve these

properties, following disposition, an as affordable low-income rental housing resource. This typically requires the appropriation of 15-year, project-based section 8 subsidy. The substantial budget authority associated with these long-term contracts is extremely difficult to acquire in periods of budgetary constraint. As a result, the projects sit in inventory and the government absorbs a less visible, but similarly expensive, holding cost.

The $400 million in expenditures for rehabilitation grants to State and local governments is an attempt to break out of this costly cycle using a new, less costly funding approach. Rather than providing long-term contracts to protect affordability, the proposal would authorize the transfer of properties to the States and localities with sufficient grant funds to rehabilitate them and return them to productive use. The States and localities, working in partnership with nonprofit and neighborhood groups, would establish a rent structure that would ensure affordability—with no additional project-based subsidy.

This new approach would be used with traditional disposition tools to return a valuable and precious rental housing resource to productive use.

Amend the Requirement for State and Local Government Right of First Refusal

Section 102 would amend the requirements for the 90-day right of first refusal period that State and local government agencies have to buy HUD-owned multifamily projects after a final disposition program has been developed by HUD under section 203 of the 1978 Amendments. HUD now asks these agencies for their recommendations regarding disposition of HUD-owned multifamily projects early in the process. Tenants are notified as well. Once HUD takes these comments into account, a final disposition program is prepared. At this point, HUD is required to give these agencies 90 days to decide whether to buy a project under the terms of the final disposition program.

HUD will continue to have State and local consultation activities take place as early as possible, when the disposition program is being prepared. It is desirable to have all parties involved at the earliest possible time. It is especially important with respect to resident homeownership initiatives, where early analysis and consultation are essential to determine feasibility.

Under this section, however, the current local consultation and coordination process would be expanded to require HUD, within 60 days of acquiring title to a project, to notify State and local government agencies that it has acquired title to the project. Within 60 days of this notice, the agencies would have the opportunity to give HUD a preliminary expression of interest in the project. HUD would be authorized to take such actions as may be necessary to require the agencies to substantiate such interest. If an agency expresses interest in the project within this 60-day period, and substantiates such interest if requested, HUD would be required to offer it a 90-day right of first refusal period once HUD notifies the agency of the terms and conditions of the disposition plan. If these agencies do not express preliminary interest in the project within the 60-day period, or substantiate an expressed interest if requested, upon approval of a disposition plan, HUD would be authorized to market the project. This would avoid the automatic 90-day delay in sales where there is no interest on the part of such agencies.

For projects acquired on or after the effective date of this section, the amendments made by this section would apply. For projects in HUD's inventory at the time of enactment of this provision, HUD would be authorized to apply (1) the requirements of section 203(e)(2) of such Act that existed immediately before the effective date of this section; or (2) the amendment made by subsection (a) of this section, regardless of the status of the disposition plan or the 90-day right of first refusal period. HUD could apply the new procedures only if it gives the State or local government agencies 60 days to express an interest in the project, and for those that express interest within the 60-day period, and substantiate such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

Repeal State Agency Multifamily Property Disposition Demonstration

Section 103 would repeal the demonstration program authorized under section 184 of the Housing and Community Development Act of 1987. Section 184 requires the Secretary to carry out a program to demonstrate the effectiveness of selling HUD-owned projects through a partnership with State housing finance agencies. Before offering a project for sale, HUD would notify the State agency in the participating State and provide it with an opportunity to finance the sale under the coinsurance program. Since the coinsurance program has failed, with severe adverse financial effects upon HUD and the taxpayer, the Department believes that this demonstration authority should be repealed.

As an alternative, under its general demonstration authority, HUD is readying an announcement of four one-year cooperative agreements that will support a demonstration of the effectiveness of disposing of distressed HUD-owned multifamily properties through partnerships with State housing finance agencies. The awardees are the housing finance agencies of Massachusetts, Illinois, New York, and District of Columbia. Each agency will select one or more HUD-owned projects, subject to approval by the Department, and may provide long-term financing with an insured FHA mortgage to the purchaser. The results of the demonstration are expected to show innovative and cost effective solutions to the problem of the growning inventory of distressed multifamily housing and will help the Department determine whether to enter into similar relationship with other State housing finance agencies.

Demonstration: RTC Marketing and Disposition of Multifamily Properties Owned by HUD

Section 104 would create a demonstration to enable the Resolution Trust Corporation (RTC) to market and dispose of multifamily properties owned by the Secretary. RTC has a proven system for selling their properties directly to units of general local government and nonprofit organizations for affordable rental housing. At the same time, FHA's disposition rules and operating procedures have hampered successful disposition of its properties to these entities. This demonstration would increase FHA's ability to provide, under its property disposition program, affordable rental housing by adopting the RTC model and by using RTC to market its properties. It would test the feasibility of closer coordination and standardization of Federal disposition policies, and ultimately could lead to improved marketing and disposition procedures.

Subsection (a) would authorize the Secretary to carry out this demonstration with up to 50 multifamily properties. The demonstration would be carried out in accordance with terms and conditions agreed to by the RTC and HUD. The RTC would establish policies and procedures, subject to HUD review and approval.

Under the demonstration, HUD could wavie any statutory or regulatory requirements that apply to the project that are not consistent with this demonstration (see subsection (b)), other than equal opportunity or nondiscrimination requirements or procedures. The Secretary could waive such provisions as income targeting and subsidy so that these provisions would conform to RTC's affordability, subsidy layering, and bidding procedures.

In determining which properties to include in the demonstration, HUD would take into consideration such factors as the size of the inventory in the locality and any other factors that the Secretary considers appropriate (see subsection (c)).

HUD would be required to reimburse the RTC for the direct costs associated with the demonstration, such as the costs of administration and marketing, property management, and any repair and rehabilitation. HUD could use proceeds from the sale of the properties to reimburse the RTC. (See subsection (d).)

The demonstration would have to: (1) be approved personally by the Secretary; (2) taken as a whole over the life of the demonstration, not result in higher costs to the Federal government; (3) be generally consistent with the overall purposes of the program or programs under which the waiver is granted; (4) be the subject of an evaluation plan for which funding is obligated or set aside at the same time the demonstration is approved and which will be carried out by an independent party; and (5) be consistent with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The evaluation would include an assessment of the impact and effectiveness of (a) any requirements waived pursuant to subsection (b), and (b) any differences between the property disposition procedures of the RTC and HUD.

The Secretary would be authorized to establish any requirements determined to be necessary for the conduct of the demonstration (see subsection (f)).

The RTC would submit to the Secretary an annual progress report. In addition, within one year of the conclusion of each demonstration, the Secretary would be required to submit to Congress a report describing the results of the demonstration and any recommendations for legislation. See subsection (g).

The demonstration would not extend beyond the termination date of the RTC. See subsection (h).

One million dollars would be authorized under subsection (i) for the evaluation of the demonstration.

Authorize Civil Money Penalties Against General Partners and Certain Managing Agents of Multifamily Projects

Section 105 would amend section 537 of the National Housing Act, which authorizes HUD to impose civil money penalties on FHA multifamily mortgagors. The proposal would authorize the imposition of civil money penalties against general partners and certain managing agents of multifamily mortgagors and add two additional violations.

The HUD Reform Act of 1989 authorized HUD to impose civil money penalties against a variety of participants in housing programs, including FHA multifamily mortgagors. The provisions authorizing civil money

penalties against multifamily mortgagors, however, have had limited effect since the term "mortgagor" contained in the Act has been interpreted to mean the ownership entity (or, rarely, a person) that owns the project. Ordinarily, the sole asset of an ownership entity is the property held under a nonrecourse mortgage. Accordingly, the mortgagor does not have assets sufficient to pay a civil money penalty.

This section would close this loophole by broadening the authority to impose sanctions against multifamily mortgagors to include general partners of partnership mortgagors, their identity of interest managing agents, and independent "fee" managing agents that fail to comply with HUD requirements to notify the Department of improper actions by the general partner.

Section 537(b)(1) authorizes HUD to impose a penalty for a violation of an agreement by a mortgagor as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of mortgage terms, or a workout agreement. The amendment to subsection (b)(1) of the Act would add general partners, but would not refer to "any agent employed to manage the property. . . ." The amendments to subsection (c)(1) would. Subsection (c)(1) differs because the violations set forth in subsection (b)(1) cannot be committed by managing agents.

The amendment to section 537(c)(1) would delete the current references to a "violation of the regulatory agreement," because the managing agent against whom penalties may be imposed under that subsection is not a party to that agreement. It is, however, appropriate to impose a civil money penalty on a managing agent for a violation of an item in the list in subsection (c)(1) because HUD requires that agent to sign a management contract that incorporates by reference the terms of the regulatory agreement.

These changes would substantially affect the wording of the introductory language of subsection (c)(1). The amended language would read as follows:

"(C) OTHER VIOLATIONS FOR WHICH PENALTY MAY BE IMPOSED.—

"(1) VIOLATIONS.—The Secretary may also impose a civil money penalty under this section on (A) any mortgagor of property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act, (B) the general partner of the partnership mortgagor, (C) any agent employed to manage the property that is an identity of interest entity of the general partner, or (D) any independent fee management entity, under contract with the mortgagor or general partner, that fails to notify the Secretary, as required by the Secretary, that it has been instructed by the mortgagor or general partner to engage in activities that are contrary to regulations and requirements of the Secretary. A penalty may be imposed under this section for knowingly and materially taking any of the following actions:".

The amendment to section 537(c)(1) would also add two provisions, contained in the HUD regulatory agreement, that were omitted in the current statute. These would allow civil money penalties for: (1) failure to use project income to maintain the project, and (2) failure, by a general partner, to provide management acceptable to HUD.

HUD could impose a civil money penalty on an independent fee management entity only if the entity failed to notify HUD, as HUD requires. The Department intends to exempt an independent fee management entity from a civil money penalty for one of the specified violations only if it advises HUD before or during the time the entity commits the violation.

Conforming changes would be made to section 537(d)(1)(B), (e)(1), and (f) and to the heading of section 537.

Subsection (b) would apply the amendments made by subsection (a) only to—

(1) violations that occur on or after the effective date of this proposal; and

(2) in the case of a continuing violation (as determined by HUD), any portion of a violation that occurs on or after that date.

Extend HUD Review Period for Approval of Management Improvement and Operating Plans

Section 106 would amend Section 201(d)(6) of the Housing and Community Development Amendments of 1978 to extend HUD's review period to approve a Management Improvement and Operating Plan from 30 days to 120 days. The plan must be submitted by an owner to HUD when applying for Flexible Subsidy assistance. Section 406 of the HCD Act of 1992 added the requirement that HUD review and approve plans within 30 days. If HUD fails to notify the owner of approval or disapproval within the deadline, the plan is considered approved.

This provision is necessary because HUD has difficulty reviewing complex Management Improvement and Operating Plans in such a short review period. By extending the review period to 120 days, HUD would have sufficient time to complete the review without burdening owners with too long a delay.

Use of Flexible Subsidy in Preservation Projects

Section 107 would amend the Flexible Subsidy program authority in the respects noted below.

Subsection (a) would add a new section 201(k)(4) to the 1978 Amendments to restore the priority on the use of Flexible Subsidy program funds that was accorded to preservation projects under ELIHPA before enactment of section 405(b)(1) of the HCD Act of 1992.

Subsection (a) would also make the Notice of Funding Availability (NOFA) process inapplicable to those Flexible Subsidy funds that are used in the ELIHPA preservation program by making clear that the refunds are awarded on a noncompetitive basis. In this regard, since the funds are used as a part of a package of assistance put together on a project-by-project basis, the NOFA process is inapposite to this program's efficient and appropriate use of these funds.

Finally, subsection (b) would restore to parity with insured projects the claims on Flexible Subsidy funds of projects for which the Secretary holds the mortgage and uninsured State agency Section 236 projects. Amendments in section 405(b)(2) of the Housing and Community Development Act of 1992 removed these two classes from parity with federally-insured projects in their eligibility for Flexible Subsidy funds.

Delete Requirement to Reduce Interest Rates to Avoid Foreclosure on Assigned Mortgages

Section 108 would delete the provision of law that requires, subject to appropriations, that the Secretary reduce the interest rate on assigned mortgages where that action will prevent a foreclosure. Section 902(d) of the HCD Act of 1992 took the Secretary's authority to reduce interest rates on Secretary-held mortgages, under section 7(i) of the Department of Housing and Urban Development Act, which was permissive, and made it mandatory, if the Secretary's use of this authority could avoid foreclosure.

The fact that this authority is mandatory presents problems because the availability of the interest reduction establishes an incentive for default, and will be likely to expose HUD to increased claims and servicing costs. While the Department should not generally be in the position of rewarding defaulting owners with a favorable refinancing of the project at no cost, retaining the Secretary's discretionary authority in this regard is not objectionable since in the case single family mortgagors in particular, there are other disincentives to default that would be sufficient essentially to preclude them from seeking to take undue advantage of the mandatory authority.

The proposed revision would also delete the requirement of an appropriation as a precondition to the Secretary's legal capacity to take action in a way that may amount to a defense of the integrity of the FHA Fund.

Accordingly, the law is proposed to be revised to return essentially to its terms before amendment in the 1992 Act.

TITLE II—ENHANCE PROGRAM FLEXIBILITY

SUBTITLE A—OFFICE OF PUBLIC AND INDIAN HOUSING

Freeze Fees for Administration of the Certificate and Voucher Programs

Section 201 would, essentially, freeze the base on the fees paid to PHAs (including IHAs) by HUD for the ongoing costs of administering the Certificate and Voucher programs for Federal fiscal year 1994. Under section 8(q)(1) of the U.S. Housing Act of 1937, HUD pays PHAs administering the Certificate and Voucher programs a fee for the ongoing costs of administering the program. The fee is based on a percentage of the fair market rent for a 2-bedroom unit in the PHA's market area.

HUD recently published fair market rents (FMRs) for public comment in the Federal Register on May 6, 1993. These FMRs were developed using the 1990 Census data and the new definitions of metropolitan statistical areas established by OMB and are more accurate. They will take effect in FY 1994.

The use of the 1990 Census data and other changes in the calculation procedures have resulted in significant revisions for a large number of FMR areas this year. For example, where all nonmetropolitan counties in a county group previously had the same FMRs, each county now has separate FMRs. As the result of all of these changes, the FMRs are being decreased in more than 50% of the FMR areas.

Under this proposal, HUD would pay PHAs their administrative fee based on the FMR published on October 1, 1992. The applicable percentages for determining the fee would not be changed by this legislative proposal. HUD would continue to approve higher fees for the special circumstances now authorized by section 8(q).

The policy would apply to the existing Certificate and Voucher programs. Otherwise applicable law, current HUD regulations, and related requirements would be overridden by the proposal, so HUD could implement this new policy as soon as possible, in accordance with written guidelines issued directly to HUD field offices and PHAs.

Since the fees that PHAs earn for administering the Certificate and Voucher programs are based on the FMRs, if this proposal is not enacted, many PHAs will suffer a severe financial hardship because their administrative fees will be reduced in direct proportion to the decrease in FMRs. This means that PHAs would have to reduce staffing levels immediately to comply with the reduced level of fees, and as result, the ability of the PHAs to administer the programs

in accordance with applicable requirements would be impaired.

HUD believes that the fees for PHAs in areas where the FMRs for FY 1994 are being increased should not be increased due to the happenstance of improved FMR methodology. In many cases, the fee increase would be a windfall to PHAs where rents have gone up substantially but the costs of administering the program have not.

Revitalization of Severely Distressed Public Housing; Demolition and Disposition of Public Housing

Amendments to Section 24

Section 202 would amend section 24 of the U.S. Housing Act of 1937, the authorization for the Severely Distressed Public Housing program. Section 24 was enacted by section 120 of the Housing and Community Development (HCD) Act of 1992. For FY 1993, the Urban Revitalization Demonstration (URD) program, a program with similar objectives to the section 24 program, was established and funded under HUD's FY 1993 appropriations Act. For FY 1994, the President's Budget proposes to fund the Severely Distressed Public Housing program. The amendments to section 24 made by this section incorporate some of the best features of the URD program into the section 24 program and make other improvements.

Delete Requirement for Designation of Eligible Projects.—Subsection (a)(1) would delete the requirement in section 24(b) that the Secretary designate severely distressed projects. The Department thinks it is both unwise and unnecessary to establish and maintain a list of "severely distressed" public housing developments. As funds become available, localities will revitalize their distressed developments with funds from the Comprehensive Grant Program or apply for funding under this section. In the meantime, housing agencies will do their best to maintain these developments and create a decent living environment under very difficult circumstances. It would not be at all helpful to the ongoing effort to sustain these developments to label them as "severely distressed." A conforming amendment would be made to the annual report requirement in section 24(i).

Increase Planning Grant Dollar Cap.—Subsection (a)(2) would increase the maximum planning grant from $200,000 to $500,000. The current cap is too low for large public housing developments. The higher amount is needed to assure sound planning for undertakings as costly as those funded under section 24.

Community Service.—Subsection (a)(4) would require that planning grant applications propose planning for community service activities, and subsection (a)(6) would require that implementation grant applications propose community service activities. Subsections (a)(3) and (a)(5) would add planning for community service activities and the activities themselves as eligible activities.

Community service activities are a key feature of the URD program. These amendments recognize the important contributions residents of the developments can make to the well-being of all the residents of the development and the wider community, and that other members of the community and other persons can also provide significant support for the development. Community service may be performed on a volunteer basis, or may include payment of a stipend. Community service opportunities for disadvantaged youth generally include opportunity for completion of high school education requirements, job training, and other activity designed to lead to economic mobility.

Replacement Housing.—Subsection (a)(5)(A) would clarify that funding under section 24 may be used to fund replacement housing required by section 18 of the 1937 Act. HUD would establish policies and procedures by regulation for the use of assistance available under section 24 for replacement housing, including replacement housing provided under equivalent State and local programs.

Increase Support Services Cap.—Subsection (a)(5)(B) would increase the cap on the amount of the implementation grant that may be used for support services from 15 percent to 20 percent. This will provide greater flexibility to the PHAs and permit greater emphasis on critical social problems.

Contributions for Support Services.—Subsection (a)(5)(C) would establish a requirement similar to one in the URD program for contributions from non-Federal sources for supportive services in an amount equal to at least 15 percent of the amount of the implementation grant used for supportive services. In the URD, the contribution must be made by the local government. However, the Department has determined that flexibility to allow contributions from local foundations, private non-profit organizations, and other non-governmental groups will be equally useful in assuring a local commitment to the success of the revitalization effort. The contribution could be in the form of cash, administrative costs, or the reasonable value of in-kind contributions and could include CDBG funding.

National Geographic Diversity.—Subsection (a)(7) would delete the rigid requirement that the selection criteria for planning and implementation grants include "national geographic diversity among housing for which applicants are selected to receive assistance." Instead, HUD would be given flexible authority to select a lower-rated, approvable application over a higher-rated application to increase the level of national geographic diversity of applications approved under section 24.

Implementation Grant Selection Criteria.—Subsection (a)(8) makes a technical amendment to the selection criteria for implementation grants. Current law includes as one of the criteria "the potential of the applicant for developing a successful and affordable revitalization program." Under the amendment, HUD would consider the quality of the PHA's proposed revitalization program in rating applications. At this stage, the application, in effect, is the plan, so HUD should rank based on its quality, not on the PHA's potential to develop one.

Definition of Severely Distressed Public Housing.—Subsection (a)(9)(A) would recast the definition of severely distressed public housing, as follows:

(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term "severely distressed public housing" means a public housing project or a building in a project that—

(A) requires major redesign, reconstruction, or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

(B)(i)(I) is occupied predominantly by families with children which have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more; and

(C) cannot feasibly be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds in relation to the total modernization needs of the public housing agency; and

(D) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

Instead of qualifying as severely distressed public housing by meeting the requirements of either subparagraph (A) or (B), the definition combines most features from both subparagraphs (A) and (B), simplifying and clarifying the definition and making it more feasible to administer.

An example of the problems in current law is section 24(h)(5)(ii), which refers to housing which is occupied by families in a severe state of distress, characterized, among other things, by such factors as high rates of teenage pregnancy and minimal educational achievement. Information on these two characteristics is not readily available at the project level. It is likely these variables are highly correlated to the data on amount and source of income, which is readily available and would be retained as paragraph (5)(B)(i), above.

Another change is the deletion of section 24(h)(5)(B)(i), which requires that projects qualifying under subparagraph (B) must be owned by a troubled PHA. A severely distressed, high vacancy development may occur in an agency that is not troubled.

Definition of Community Service and Support Services.—Subsection (a)(9)(B) would add two new definitions, as follows:

COMMUNITY SERVICE.—The term "community service" means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served, including opportunity for the upward mobility of participants providing the community service, through completion of education requirements, job training, or alternative methods of developing skills and job readiness.

SUPPORT SERVICES.—The term "support services" includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the development, such as literacy training, job training, day care, and economic development, and may include such activities for residents of the neighborhood.

Amendments to Section 18

Subsections (c) though (f) would make several changes to give public housing agencies (including Indian housing authorities) more flexibility in planning for the future of their stock.

COMPREHENSIVE GRANTS AND DEVELOPMENT GRANTS FOR REPLACEMENT HOUSING.—Subsection (c)(1) would amend 5(a)(2) of the U.S. Housing Act of 1937 to require HUD, in selecting among applications for the development of additional public housing, to give a priority to PHAs that use amounts they receive under the Comprehensive Grant modernization program for replacement housing under section 18. Section 18 requires the replacement of public housing units which are

demolished or disposed of, with some exceptions.

Subsection (c)(2) would authorize HUD to permit PHAs to use amounts allocated under the Comprehensive Grant program for the development of replacement housing, as required by section 18.

These changes are in response to a strong recommendation of the Commission on Severely Distressed Public Housing that replacement funds be provided in the funding for rehabilitation and revitalization. Ready access to replacement funds assures the community that its stock of assisted housing will not be diminished.

USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—Subsection (d) would permit a PHA to replace public housing units with five-year tenant-based section 8 assistance if—

(a) the project has been vacant for a period of at least five years;

(b) the proposed demolition is necessary for revitalization of the remaining units in the project; or

(c) demolition of the entire project is proposed and some or all of the units will be replaced on the site.

In addition, section 18(b)(3)(C)—the so-called "market test"—would be amended so the current market test would not apply if the replacement housing plan involves the use of five-year tenant-based section 8 assistance or involves the demolition of 200 or more units. Instead, section 8 tenant-based assistance could be approved if the PHA determines that such use is feasible and appropriate to meeting the low-income housing needs in the community. Current law restricts use of section 8 assistance to places where HUD makes a finding that development is not feasible and where the supply and availability of adequate private market resources for the program can be assured for the next 15 years.

This flexibility is essential for dealing with severely distressed developments where a substantial amount of demolition is needed and sites are not readily available for that quantity of units. These criteria would give more flexibility than the current provision, which allows use of five-year section 8 assistance if at least 200 units are to be demolished, but does not exempt such situations from the market test.

Need for Replacement Units. Subsection (e) would amend section 18(b)(3) to permit demolition or disposition without replacement if there is no need for additional assisted housing in the community, as determined in accordance with criteria determined by the Secretary.

The law currently requires replacement even in places where there is no need for additional assisted housing. For example, there are rural areas which have suffered dramatic losses in population and there is literally no need for replacement housing. In Detroit, loss of population has been so severe that there are huge vacancies in both the private and public housing stock. In these cases, replacement should obviously not be required.

Replacement Housing Outside the Jurisdiction of the PHA. At present, section 18 restricts the location of replacement units to the PHA's jurisdiction. Subsection (f) would permit locating some or all of the replacement units outside of the jurisdiction of the PHA but within the same housing market area, based on a realistic look at housing needs in the real economic community, and not simply according to the boundaries of political jurisdictions. For core-city PHAs, this might solve the problem of the unavailability of suitable replacement sites within their jurisdictions. It would allow adjoining communities to cooperate in a way that best serves the interests of the poor and might help to open up housing opportunities in adjacent areas where the employment picture is favorable.

Specifically, replacement units could be located outside the PHA's jurisdiction if—

(a) the location is in the same housing market area as the original agency, as determined by the Secretary;

(b) the replacement housing plan contains an agreement between the original agency and the PHA in the alternate location, or other public or private entity that will be responsible for providing the additional units in the alternate location ("alternate agency or entity"), that the alternate agency or entity will, with respect to the dwelling units involved—

(1) provide the dwelling units in accordance with program requirements;

(2) complete the plan within the required time period;

(3) work with the original agency to ensure that (A) the same number of individuals and families will be provided housing and (B) the maximum post-relocation rent provisions are complied with; and

(4) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

(c) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located.

Disallowance of Earned Income for Residents Who Obtain Employment

Section 203 would amend section 3 of the Housing Act of 1937, which was amended in 1990 to disallow counting as income the earnings and benefits of any public housing resident resulting from participation in various employment training programs established under Federal, State, or local law in order to provide a work incentive. The disallowance of earned income resulting from the program extends for 18 months. The purpose of the provision was to provide a work incentive and to facilitate the transition from welfare to work.

This proposal would delete the 1990 disallowance provision and substitute a provision which would provide an 18-month disallowance of increases in income due to employment of residents who become employed after having been unemployed for at least one year, regardless of whether they have participated in any employment training program. Thus, the proposal would provide the work incentive to an expanded group of residents, by eliminating the need to participate in certain training programs. It would also target the incentive to those with no recent work experience, thus limiting somewhat the group now affected by the law. The proposal would also repeal section 957 of the National Affordable Housing Act (NAHA) of 1990, which applies to all assisted housing programs, and which provides that rent increases are limited to 10 percent per year for three years if the rent increases would result from the employment of a resident who was previously unemployed.

In the interests of equity to residents, ease of administration, and the general comprehension and effectiveness of the work incentive, it is important that the rules affecting the treatment of earned income of residents previously unemployed be as consistent as possible, regardless of what kind of training program they may have participated in or whether their transition required any training at all.

Although no income disregard is simple to implement, section 957 is more cumbersome than most because it requires a three-year phase-in of the income of each individual who gets a job after being unemployed for any period of time. It creates an incentive for abuse by authorizing the disregard after any period of unemployment, no matter how short. By contrast, an amendment of section 3 to freeze the rent for 18 months would be easier to administer and would provide an incentive which is simple, easily understood, and hopefully effective as a work incentive. Requiring a one-year period of unemployment is likely to preclude any incentive to quit a job in order to be eligible for the disregard.

Ceiling Rents Based on Reasonable Rental Value

Section 204 would amend the existing ceiling rent authority for the Public and Indian Housing programs to authorize PHAs to establish ceiling rents no lower than the reasonable rent for the unit.

Public housing now serves the poorest of the poor. The median income of nonelderly households is 16% of the local area median income. The national average income of nonelderly public housing families is less than $7,000. Only 6% of all non-elderly households have income exceeding 50% of local area median income. Only 28% of all nonelderly households derive their income primarily from wages. Many developments have a very small number of working households. Literally, thousands of children are being raised in public housing developments where almost no one gets up and goes to work every morning. HUD estimates that almost 900,000 non-elderly households live in ghettos of extreme poverty.

The goal of public housing is to serve low-income households, and to serve them well. Creation of communities which do not include families whose lifestyle focuses on work, education, and upward mobility is to create communities which reinforce dependency, school drop-outs, teenage pregnancy, crime, and a bleak future for the children. Such communities do not serve their residents well and do not offer hope for the future of our cities and our nation.

A policy which contributes significantly to extreme concentration of very low-income households in non-elderly public housing is the so-called "30% rule," which requires PHAs to charge most resident families an amount which is 30% of their adjusted income, regardless of the value of the units. Developments vary widely in actual rental value. HUD's analysis shows that, based on rents that families are willing to pay for public housing units, almost 80% of such units have a rental value that is less than 75% of the local section 8 fair market rent (FMR). Each time that a PHA informs a resident that the rent for the unit will be increased for the next year, the resident has to weigh the available options and decide whether to pay that amount for the unit, or try to get a better deal elsewhere. A decision to move may mean that the family lives in substandard housing, or that it pays an even higher percentage of income for rent, but it also means that it has chosen a unit that it believes to be worth the rent that is being charged, given the choices available in that market.

Because the 30% rule frequently forces PHAs to charge more than units are worth or residents are willing to pay, the policy is an incentive for many working families every

year to leave public housing. Because some public housing developments are old and poorly designed, and lack security and good maintenance and management, their actual rental value is very low and some of the families being pushed out by the 30% rule may have incomes well below 50% of median. Nearly all the "push-outs," however, are working families. Application of the 30% rule also discourages public housing residents from working more hours and seeking higher pay, because a substantial part of the increase in earnings must go for rent.

Section 3(a)(2)(A) of the U.S. Housing Act of 1937 now allows use of maximum or "ceiling" rents. Ceiling rents may not exceed a maximum amount that—

(i) is established by the PHA/IHA and approved by HUD;

(ii) is not more than the amount payable by the family under the tenant rent formula (generally 30% of adjusted income); and

(iii) is not less than the amount of debt service and operating expenses attributable to units of similar size in developments owned and operated by the PHA.

Although this policy provides ceiling rents which are low enough to encourage working households to remain in some developments, in the majority of PHAs this formula produces a number that is higher than the perceived rental value of most, if not all, of the units. This occurs because there is no necessary relationship between cost and rental value. Many developments have very high debt service relating to extensive amounts of modernization or to recent construction. Operating costs can be increased substantially by high energy costs. The poor design, security problems, and stigma that often accompany public housing also contribute to a very low rental value. An effective ceiling rent must be related to the rental value of the units and must take into consideration the variation of rental values among the developments of a PHA.

The proposal would amend the 1937 Act to authorize PHAs to establish ceiling rents no lower than the reasonable rental value of the unit, as determined by the Secretary. The current requirement in (iii), above, would be deleted. HUD is currently examining alternatives for the procedures for establishing such rents, which would be done by Federal Register Notice and pursuant to Departmental regulations.

HUD has the capacity to analyze rents now being paid, by development, and to identify the highest 5% of rents, which represent the most that families are willing to pay for those units in that particular development. HUD could issue minimum ceiling rents, based on an analysis such as this, as the lowest ceiling rents the PHA may establish for the development. A PHA would have broad flexibility in setting its own ceiling rents. For example, it could choose to set the rents higher than those HUD issues or to set one ceiling rent for all units of the same size throughout the PHA or in each neighborhood, or the PHA could choose not to use ceiling rents at all. The rents authorized would be likely to range from the section 8 FMR down to very low rents, as little as 40% of FMR, for the least desirable developments.

Pursuant to this proposal, as initially implemented by notice published in the Federal Register, HUD plans to approve use of ceiling rents for up to 5% of the residents, thereby providing the highest income residents in each development with an incentive to stay in public housing. This ceiling rent initiative based on rental value of the units could be expected to begin to improve the residential mix in nearly all developments, including the very poorest, within the first year, by retaining those families who would have moved out during the year. It would encourage work by making it possible for working families to keep more of their earned income, without higher rent being charged each time their income goes up.

For Indian housing, because normal market forces do not impact actual rents paid due to the limited choice of housing on Indian lands, HUD is exploring alternative methodologies for determining reasonable rental value for units in Indian housing authority developments.

HUD's preliminary cost estimate is that the first year of the policy would cost $40 million for all public housing developments (elderly and nonelderly). The cost would be less in succeeding years as the policy change results in retention of larger numbers of working households.

Pursuant to subsection (b), the Secretary would, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the ceiling rent authority, as amended by subsection (a), and invite public comments. The Secretary would issue final regulations based on the initial notice, taking into account any public comments received.

SUBTITLE B—OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

Economic Revitalization Initiative

Section 210 would make amendments necessary for the Department's Economic Revitalization Initiative.

Economic Revitalization Grants

Subsection (a) would amend sections 108 and 119 of the Housing and Community Development Act of 1974 to authorize deobligated Urban Development Action Grant (UDAG) funds to be used to make grants to communities to finance a portion of the cost of qualifying economic revitalization projects or activities assisted under the section 108 Loan Guarantee Program. This proposal would also amend sections 101(c) and 104(b)(3) of the 1974 Act to exempt private funds received as a result of a guarantee under section 108 from the 70% overall low- and moderate-income benefit requirement. Thus all Federal funds, including CDBG amounts used to repay section 108-guaranteed loans as well as grants from deobligated UDAG funds, would be subject to the existing CDBG national objectives and low- and moderate-income benefit requirements. Section 108 applications that include requests for grant assistance would be funded on a first-come, first-served basis.

Communities need funds for economic revitalization. Communities are particularly in need of a program that would permit financing economic revitalization activities that support their overall revitalization. Section 108-guaranteed loans supported by grants that improve the financial viability of the assisted projects can provide a largely untapped source of financing for community economic revitalization activities. Section 108-guaranteed loans supported by relatively small grants are a particularly valuable funding source for revitalization activities that can be financed by loans because this permits CDBG funds (that would otherwise be the funding source for the entire loan) to be allocated to other CDBG activities.

The existing section 108 program would continue to be available for the same CDBG activities currently specified in section 108. However, the demand for the current program (even under the best conditions) is not expected to exceed $300 million, primarily because of the risk that future years' CDBG funds will have to be used to repay the section 108-guaranteed loan. This risk generates opposition from the various parties that have a claim on future CDBG funds (e.g., neighborhood groups, elected officials, local staff). Section 108 use can be increased by reducing the risk to a level that does not summon the fears of these parties regarding "their" funding source.

The grant made with deobligated UDAG funds would address the risk to future CDBG funds directly by increasing the project cash flow that would be available to repay the section 108-guaranteed loan principal or interest. The project could be structured to deal with smaller cash flows during the start-up period of the project. To address the start-up problem, the project's costs could include reserves (e.g., debt service and operating reserves) to supplement, if necessary, the project's cash flow during the start-up period. Any reserves that are not used for such purposes could be used to pay down the section 108-guaranteed loan and thereby reduce section 108's share of the funding for the project. Any program income generated by the project would be retained by the community and used in accordance with CDBG requirements.

These loan guarantees with grant support would enhance and complement communities' current economic development efforts. Currently, most CDBG communities limit both the size and extent of the economic development programs due to the many competing demands for CDBG funds. This enhanced source of funding would allow communities to establish economic revitalization loan programs to address economic revitalization needs that are not now addressed, including activities such as neighborhood revitalization, micro-enterprise loan funds, and job-enhancing revitalization projects.

Unlike traditional Small Business Administration sources of business assistance (such as the 7(a), 502, and 504 programs) that target the needs of the business within the specified program's parameters and which tend to assist businesses directly, this proposal relies on the involvement of the local government to select projects that further its overall economic revitalization strategy. Because a local government is able to provide financial assistance (through funds available under this proposal, CDBG and local programs), technical assistance and other government services, consistent with its own strategy, this approach would likely result in more coordinated economic and physical revitalization. In addition, this would enable nonprofits to link up with local governments and private lenders to establish innovative economic revitalization activities.

The program design provides for HUD's review and approval of each applicant's proposal (including financial underwriting) and benefits from HUD's commitment of section 107 technical assistance funds to continue to improve local economic development capacity.

Since private funds (except for the new section 108(q) economic revitalization grants) would be used directly to finance the section 108-assisted activity, those funds would not be subject to the 70% low- and moderate-income benefit requirements. However, any Federal funds (i.e, CDBG funds used to make payments on the section 108-guaranteed loan and any section 108(q) grants made with deobligated UDAG funds) would be subject to

the 70% low- and moderate-income benefit requirements.

Section 108 Loan Guarantees for Colonias

Subsection (b) would amend section 108 to expand the list of eligible activities in colonias to include section 108 loan guarantees on loans in colonias for all public improvements and facilities that are now eligible under the CDBG program.

This change would enhance section 108's utility as a vehicle for financing investment in public infrastructure in colonias. It would provide up-front financing for badly needed public improvements and facilities (such as water and sewer systems) and enable colonias to use CDBG-related monies for projects which are time-consuming and might otherwise conflict with deadlines for quick expenditure.

Guarantee of Obligations Backed by Section 108 Loans

Subsection (c) would amend section 108 to permit pooling of notes by giving HUD authority to guarantee trust certificates or other obligations representing fractional undivided interests in a trust or pool or notes issued by section 108 recipients, and would make related technical changes. The Small Business Administration (SBA) has this type of authority with respect to its local development company program. In some respects, this authority is also similar to the authority of GNMA to guarantee securities backed by pools of FHA-insured mortgages.

Communities receiving guaranteed loans under section 108 may repay the loans over a period of from 1–20 years. In order to finance the loans in the most efficient manner, HUD arranges for borrowers to issue promissory notes for sale in an underwritten public offering. The current public offering process has been hampered by the large number of notes offered for sale to investors, resulting in higher interest rates and a larger administrative burden on HUD.

According to the universal opinion of section 108's underwriters, marketing securities representing interests in pools of obligations issued by local governments under section 108 would be more efficient than the current mechanism and would encourage more institutional investors, such as pension funds, to purchase obligations guaranteed under section 108. Due to the varied financial needs of local governments participating in the section 108 program, it is impossible to substantially reduce the number of notes issued under the current process without HUD having the authority to guarantee securities based upon pools of obligations otherwise eligible for guarantee under section 108.

The more efficient mechanism and increased participation by investors would reduce interests rates. The reduced interest rates would, in turn, induce more public investment by communities because the cost of financing that investment would be reduced.

Not only would the reduced rates produce significant savings for communities and make section 108 a more effective financing tool for community and economic development, but HUD's administrative burden would be measurably reduced.

This change should have no budgetary effect.

Home Investment Partnerships

Section 211 would simplify key elements of the HOME program.

Participation by State Agencies or Instrumentalities

Subsection (a) would amend section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) to expand the definition of "State." Section 104(2) currently defines "State" to mean any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. This amendment would expand that definition to cover agencies or instrumentalities of those "States" currently covered, provided that those agencies or instrumentalities are established pursuant to legislation and are designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of NAHA.

The effect of this amendment would be to allow States to designate instrumentalities such as housing finance agencies to run the HOME program. A number of States currently use State housing finance agencies, which are not part of the State government, to administer the HOME program. Under the current statutory language, however, the HOME allocation must be awarded to the State, rather than directly to the State housing finance agency. This authority to designate agencies or instrumentalities has already been given to units of general local government in section 104(1) of NAHA.

Simplify Program-Wide Income Targeting for HOME Rental Housing

Subsection (b) would amend section 214(1)(A) of NAHA, which requires that at least 90% of the HOME funds invested in rental housing must be for units occupied by families below 60% of median income. This proposal would amend section 214(1)(A) to require that at least 90% of the units assisted and, in the case of tenant-based rental assistance, the families assisted, be below 60% of median income.

This proposal would accomplish two objectives: (1) simplify the targeting requirement, and (2) guarantee the intended targeting.

Simplification.—Units (or families) are easier to count than funds invested. Casting the requirement in terms of units rather than dollars would make it more easily understood by participating jurisdictions, subrecipients, and investors. The requirement would, therefore, be easier to enforce. Keeping track of how much money was invested in each unit occupied by a family below 60% of median and then computing and tracking cumulative expenditures over the course of a fiscal grant is far more complicated than simply tracking the number of units.

Secondly, many program staff tend to assume—mistakenly—that the statutory requirement is equivalent to a unit requirement and, thus, are in danger of being in noncompliance when the funds invested per unit in such units are less than those invested in higher income units. The proposed change would preclude misunderstandings, reduce program administrative costs, and facilitate compliance.

Guarantee of Targeting.—PJs, whether intentionally to escape deeper targeting or because of local circumstances, may spend more per unit on units occupied by families below 60% of median than on units occupied by families between 60 and 80% of median. For example, existing units occupied by lower income families may be more substandard and require more investment to rehabilitate them to standard condition than units occupied by higher income families. If new construction is required to create affordable housing for families below 60% of median, costs per unit will be higher than for rehabilitation.

A PJ may, thus, meet the current statutory requirement, i.e., spend 90% of its rental housing funds for families below 60% of median, even though the percent of assisted rental units occupied by such families is much lower, e.g., 80% or 70%. The proposed change would assure that no matter the vagaries of per-unit costs, at least 90% of all rental units assisted would be occupied by families below 60% of median.

Remove First-Time Homebuyer Limitation for HOME Units

Subsection (c) would amend section 215 of the Cranston-Gonzalez National Affordable Housing Act to remove "first-time" homebuyer limitations for HOME units.

Section 215 of the Cranston-Gonzalez National Affordable Housing Act qualifies HOME assistance for homeownership by requiring that the housing be the principal residence of an owner whose family qualifies as low-income at the time of purchase and is made available for initial purchase only to first-time homebuyers. the term "first-time homebuyers" means an individual and his or her spouse who has not owned a home during the 3-year period prior to purchase of the home with HOME assistance. However, there are a number of exceptions. The original legislation exempted displaced homemakers and single parents who owned or resided in a home owned by the spouse. The 1992 amendments further exempted individuals who owned substandard housing that could not be feasibly rehabilitated or owned a manufactured home not permanently affixed to a permanent foundation.

The amendment would remove the "first-time" homebuyer limitation for HOME units. The current definition of first-time homebuyers as expanded by the 1992 amendments includes almost all low-income homebuyers. Consequently, the limitation creates burdensome paperwork requirements because participating jurisdictions must document the statutory category under which each assisted family is qualified. The proposed change will get rid of the burdensome paperwork and allow participating jurisdictions to efficiently assist any income-qualified homebuyers, if it is consistent with the comprehensive housing affordability strategy (CHAS).

The CDBG program does not restrict homebuyer assistance to first-time homebuyers. This proposed change would conform the HOME program with the CDBG program, simplifying implementation for local grantees who manage both programs.

Simplify Resale Provisions

Subsection (d) would amend section 215(b)(4)(B) of NAHA. That section requires participating jurisdictions (PJs) to use any amounts recaptured upon the sale of a dwelling assisted under the HOME homeownership program for additional homeownership purposes. This amendment would permit use of these recaptured amounts for any HOME purpose.

This proposal would increase PJ flexibility by allowing recaptured funds to be used immediately for any eligible HOME purpose, consistent with the PJ's current priorities and needs. Current law's limitation on the use of these funds for homeownership can be unduly restrictive. For example, homeownership may not be a current priority of the PJ when amounts are recaptured. In addition, a homebuyer or a suitable property may not be available when funds are recaptured, or the recaptured funds may be inadequate to cover the cost of the transaction. The proposal would maximize PJ's funding choices and would ensure the prompt use of amounts available for their current priorities.

Stabilization of HOME Funding Thresholds

Subsection (e) would amend the law governing funding under the HOME program, to assure stability in the HOME program.

Currently NAHA lays out a two-part test a jurisdiction must meet to qualify as a participating jurisdiction (PJ) and receive HOME funding for the first time. First, under section 217(b)(3), the jurisdiction must receive an allocation of at least $500,000 under the HOME program formula. Second, section 216(3)(A) requires that the jurisdiction must either receive at least $750,000 under the formula or it must supplement the difference between such amount and its formula allocation from the State's HOME allocation or from the State's or the jurisdiction's own sources. Once a jurisdiction qualifies as a PJ, it will remain a PJ and continue to receive funding for any subsequent year in which its formula allocation is at least $500,000. However, HUD has the authority to revoke designation if the jurisdiction's allocation falls below specified amounts, in accordance with section 216(9).

Sections 216(10) and 217(b)(4), which were added by the Housing and Community Development Act of 1992, provide for lower thresholds for the above tests and for the revocation rule, if the amount appropriated for the HOME program falls below $1.5 billion. Section 217(b)(4) provides that the initial allocation under section 217(b)(3) only needs to be $335,000 (from $500,000). Section 216(10)(A) reduces the amount a jurisdiction must make up over and above its formula allocation in accordance with section 216(3) to $500,000 (from $750,000).

Under section 216(9)(B), HUD may revoke a jurisdiction's designation as a PJ if the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any one year. Section 216(10)(B) provides that these amounts are reduced to $500,000, $410,000 and $335,000, respectively, when the HOME program's appropriation falls below $1.5 billion.

This subsection would repeal sections 216(10) and 217(b)(4), thereby removing the reduced thresholds for years in which the appropriation level falls below $1.5 billion. Further, the proposal would amend section 217(b)(3) to provide that the $500,000 formula threshold would only apply to jurisdictions that are not already PJs. Current PJs would not be subject to the threshold and would receive the allocation the program formula yields, whatever the amount.

The revocation authority under section 216(9) would be retained. HUD does not anticipate using this authority except in cases where the allocated amount would be so small that continued operation of a HOME program by the jurisdiction would not be feasible.

This proposal would assure stability in the HOME program by allowing a PJ, once designated and funded, to continue to receive additional allocations in subsequent years regardless of the variation of annual appropriations. At the same time it would retain the $500,000 threshold for initial designation of a PJ, thus discouraging proliferation of PJs with minimum initial funding.

This proposal would avoid sudden increases in the number of new PJs and eliminate the need for annual adjustments in the minimum threshold to preclude such increases. For example, the reduction in the threshold to $335,000 had little consequence on the mix of PJs, in FY 1993. Since the total appropriation was cut by a third, cutting the threshold by about a third allowed all but 3 PJs first funded in FY 1992 to be funded again in FY 1993. However, if the appropriation were to fall just below $1.5 billion, for example to $1.4 billion, a $335,000 threshold would result in 82 additional cities becoming eligible for formula allocations. This would be an increase of about 20% in the total number of PJs.

Given inadequate staffing levels in the Field, and with the long learning curve and lead-time necessary to get a new PJ up and ready to commit and expand funds, such an increase in the number of new PJs would severely strain staff capacity and would set back Department efforts to accelerate HOME expenditures.

Comprehensive Affordable Housing Strategy

Subsection (f) would amend the HOME program and the McKinney Act homeless program to require formula recipients under those programs to certify that they are following a current, HUD-approved Comprehensive Affordable Housing Strategy (CHAS).

Existing law contains two requirements with respect to the CHAS. Two programs—CDBG Entitlement and McKinney Act programs—require grantees to certify that they are "following" a current HUD-approved CHAS. These programs, as well as a number of other authorities, also require that each activity assisted under the specific program in question be "consistent with" the CHAS.

This proposal would ensure that HUD's formula grant programs that are subject to the CHAS—the CDBG Entitlement, HOME, and emergency Shelter Grants (ESG) programs—contain both a "following" and a "consistency" requirement. Other programs would be subject only to the "consistency" standard. McKinney Act programs other than ESG would no longer be held to the "following" test.

The "following" certification is important because it does not apply to any particular program activities—if a community fails to carry out any of its promised actions under the CHAS, or if each program activity is consistent with the CHAS, but in the fourth or fifth years of a CHAS, it becomes obvious that a community is not carrying some actions promised in the CHAS whether or not those actions are part of a HUD program, HUD can challenge a community's certification that it is following its CHAS. Right now, if the CDBG and McKinney programs determine that a community is not following its CHAS, those funds would be affected, but the HOME program would not be affected as long as each individual activity was consistent with the CHAS.

The proposal would ensure that the broader "following" test would apply to formula grant programs where the continuity of funding makes such an approach appropriate. These and other programs would be subject to the "consistency" standard in order to ensure that each assisted activity is consistent with the CHAS.

Simplify HOME Matching Requirements

Subsection (g) would amend section 220(a) of NAHA, which currently requires a match of 25% of HOME funds invested in rental assistance, acquisition, and rehabilitation, and a match of 30% of HOME funds invested in new construction. This proposal would reduce the match for new construction to 25%, so that all affordable housing assisted with HOME funds would be subject to a flat 25% match.

This proposal would simplify the matching requirements in the program, substantially reducing the difficulties of computing and tracking the match and the administrative burden on both HUD and participating jurisdictions. It would also reduce the financial burden on PJs and assure that project selection between new construction and other eligible investments would be based solely on need and cost-effectiveness, not on whether the PJ could come up with the additional 5% match.

A differential match requirement was appropriate at a time when the HOME statute contained a strong bias against new construction, when only certain PJs could undertake new construction without limit, and when others would do so only under limited circumstances. A higher match (originally 50%) for new construction provided a strong additional disincentive against new construction.

The 1992 amendments, however, removed all restrictions on new construction (all PJs may now do new construction without limit), eliminated the special new construction set-aside of funds, and reduced the match for new construction from 50% to 30%. Retaining a 5% match differential is thus inconsistent with the legislative purposes as revised, while retaining a "nuisance" complication in the program.

Because new construction is more costly, PJs are naturally reluctant to undertake it unless absolutely necessary. Certain additional requirements, such as higher energy efficiency standards and site and neighborhood standards, are appropriate additional burdens which add further costs to new construction. Penalizing PJs by also imposing additional match requirements is unnecessary and inappropriate.

Delete Separate Audit Requirement for the HOME Program

Subsection (h) would make a technical correction to section 283 of NAHA by deleting subsection (a), which requires HUD to contract annually with an independent accounting firm for a "full financial audit" of the HOME program. Subsection (a) duplicates other audit requirements, resulting, in effect, in a requirement for two audits of the HOME program.

Section 283 currently requires that there be a separate audit of the HOME program to be conducted in a manner consistent with sections 305 and 306 of the Chief Financial Officers (CFO) Act. This audit requirement, applicable to government corporations, originated in an earlier Senate version of NAHA. That version sought to establish within HUD a Government National HOME Corporation, subject to the Government Corporation Control Act, to administer the program. Though many of the Corporation's duties and responsibilities outlined in the original Senate bill were adopted by the Congress, the law requires that the program be administered by HUD, not through a government-chartered corporation. However, Congress failed to amend the audit requirements in section 283 to reflect the fact that the HOME program was no longer to be administered through such a corporation. Indeed, it seems clear from the statutory language that the current separate audit requirement was imposed with the understanding that the HOME program was to be administered as a corporation.

Absent the separate audit requirement, the HOME program would still be included in the Department's annual consolidated financial statements, which are required by section 303 of the CFO Act ("Financial Statements of Agencies") and audited annually under section 304 of the Act ("Financial Audits of Agencies"). Thus the HOME program would still be subject to audit, but would now be treated in a manner similar to other programs administered by the Department.[1]

[1] Section 303 of the CFO Act generally requires the head of each identified executive agency, including

HOME Environmental Review Amendments

Subsection (i) would make two essentially technical amendments to section 288 of NAHA. The first amendment would provide for assumption of HUD's environmental review responsibilities by all recipients receiving assistance from HUD under the HOME program (including Indian tribes and insular areas), not just participating jurisdictions.

The second amendment would provide for HUD to undertake a monitoring role and, where appropriate, to provide and facilitate training and to suspend or terminate the State or local assumption. By undertaking these duties, HUD would not, however, be substituting HUD's judgment for that of the State or local official responsible for any individual environmental review. In other words, HUD would not, on the basis of these amendments, be required to recast the environmental review regulations so that disappointed opponents of local projects could appeal State or local environmental review decisions to HUD.

The third amendment to section 288 would make HOME environmental review procedures consistent with the procedures under the Community Development Block Grant and McKinney Act homeless assistance programs. Where a State makes funds available to a unit of general local government, the State would perform the environmental review functions otherwise performed by HUD, and would be allowed to delegate to local governments the responsibility for performing environmental reviews.

Use of CDBG Funds for HOME Administrative Expenses

Subsection (j) would make eligible for CDBG funding administrative costs relating to administration of the HOME program. The use of CDBG funds for HOME administrative costs would be within the overall 20% cap on the use of CDBG amounts for planning, management, and administrative costs activities.

Section 207 of the Housing and Community Development Act of 1992 amended the HOME program by making eligible the use of HOME funds for administrative costs, subject to a percent limitation. The 1992 Act also eliminated the authority to use CDBG funds to pay for the general program administration costs of the HOME program.

This change would provide greater flexibility in allocating costs for CDBG grantees that are also HOME participating jurisdictions (PJs) because most of them use the same staff to administer both CDBG housing and HOME activities.

Project Delivery Costs

Subsection (k) would amend section 807(a)(4) of the Housing and Community Development Act of 1992 which established a new category of CDBG eligibility for housing services, including housing counseling, preparation of work specifications, loan processing, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in housing activities under the CDBG or HOME program. These activities were, however, made subject to the 20% cap on the use of CDBG funds for planning, management, and administrative expenses. This proposal would exempt CDBG funds used to pay such costs from the 20% cap.

It appears that in enacting section 807(a)(4), Congress did not intend to subject these costs to the cap on administrative expenses. Activity delivery costs are not subject to the cap for any CDBG activity. Many grantees are very concerned about the possibility of HUD implementing this provision. Based on the very rough data we have, implementation of the 1992 Act change would put about 33% of CDBG grantees over their administrative caps, and would have a significant negative effect on CDBG rehabilitation funding.

Reduce HOPE 3 Match Requirement to 25%

Section 212 would reduce the HOPE 3 local match requirement from 33% to 25%.

Enactment of this proposal would make the local match requirement of the HOPE 3 program consistent with the HOPE 1 match requirement. At present, PHAs, which are potential applicants for both the HOPE 1 and HOPE 3 programs, must meet a higher match requirement for their HOPE 3 application than their HOPE 1 application for no apparent reason.

In addition, HOPE 3 Field Office Coordinators uniformly have noted that both private nonprofit and public agencies have experienced difficulty in providing the full 33% match now required for Implementation Grant applicants. Many potential applicants did not submit HOPE 3 applications due to an inability to locate sufficient resources to meet this requirement.

SUBTITLE C—COMMUNITY PARTNERSHIPS AGAINST CRIME

Section 220 would amend the Public and Assisted Housing Drug Elimination Act of 1990 to create an expanded program entitled, "Community Partnerships Against Crime Act of 1993." Under the revised program, HUD would be authorized to make grants to public housing agencies (including Indian housing authorities) and federally assisted housing projects for use in carrying out activities to implement plans for crime suppression, intervention, and prevention in and around such housing projects.

Problem Statement

Local officials, PHA's and HUD share the responsibility of providing safe and decent housing for public and Indian housing residents. Housing in many areas suffers from rampant crime, which may include gangs or drug dealers imposing a reign of terror on local residents. The increase in crime activity has not only led to fear and acts of violence against residents, but also to a deterioration of the physical environment resulting in substantial government expenditures.

Crime is no longer limited to America's largest cities. The problems of crime and drugs have spread to the smaller cities and suburbs. Federal Bureau of Investigation data show significant increases in violent crimes against persons and crimes against property since 1985 in both large and small urban areas.

Purposes

Section 220(b) would establish the following new purposes:

(1) To substantially expand and enhance the Federal government's commitment to eliminating crime in public housing.

(2) To broaden the scope of the Public and Assisted Housing Drug Elimination Act to apply to all types of crime, not simply crime that is drug-related.

(3) To target opportunities for long-term commitments of funding to PHAs with serious crime problems.

(4) To encourage involvement of a broad range of community-based groups, and residents of neighboring HUD-owned or assisted housing, in the development and implementation of anti-crime plans.

(5) To provide training, information services, and other technical assistance to program participants.

(6) To establish a standardized assessment system to evaluate need among PHAs and to measure progress in achieving crime reduction goals.

Program Response

This proposal would establish an expanded program to address the issue of crime in public and Indian housing communities. The program, known as COMPAC, would organize PHAs, residents, and police as a community force in the development of comprehensive plans to counter crime in their neighborhoods.

The program would rewrite the existing Public and Assisted Housing Drug Elimination Act. The revised program would expand to include a much wider variety of crime reduction, security enhancement, and other efforts to impact violence, substance abuse, and gang related activities.

Under section 220(h), the funding level of the expanded program would be $225 million in grants for FY 1994. Of this amount, 6.25% would be designated for federally assisted housing programs. This set-aside would only be made available in FY 1994, after which funding for needed security costs would be addressed through rent adjustments and other existing HUD programs. The FY 1995 budget request would be $315 million.

Under section 220(i), an additional $10 million would be made available each year in FY 1994 and FY 1995 for technical and related assistance, including development of an assessment tool to determine the nature and extent of crime in any given community; the provision of technical assistance, training, and information dissemination; and evaluation of the assessment tool.

Expanded Focus of Program

The program would focus resources on areas of greatest need; be flexible enough to respond to the circumstances in each community; provide a cost-effective funding system; and establish standards for enforcement which define and clarify the roles of local officials, enforcement personnel, PHAs, and residents.

Under section 220(d), in order to provide greater certainty of continued funding for those PHAs with especially severe problems, the Act would give HUD the authority to provide renewable grants, up to five years, to PHAs with serious crime problems, subject to the availability of appropriations. To renew a grant HUD would be required to perform an annual performance review and determine that the grantee's performance is satisfactory.

Grants to other PHAs would be for terms of two years. HUD would be authorized to grant a scoring preference to applicants who

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HUD, to prepare an annual financial statement for submission to the Director of OMB. This financial statement covers "(1) each revolving fund and trust fund of the agency; and (2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year," and is subject to annual audit under section 304.

Section 303(d) creates a pilot program which entails the submission of financial statements for and ensuing audits of the accounts of all offices, bureaus, and activities of a department or administration participating in the pilot program. Section 303(d)(2) states that HUD shall participate in this pilot program, and thus financial statements are required for all HUD programs, including HOME, CDBG, Section 8 and others. These financial statements are then audited under section 304. Although the pilot program is due to expire this year, OMB is currently seeking a three-year extension of this program, and hopes to make agency-wide audits the practice in the future.

seek funding to continue anti-crime programs for up to two year grants, but only if the anti-crime program is being well implemented and has demonstrated success, and if HUD determines such preference would not unreasonably limit other PHAs that obtain passing scores.

PHAs would be encouraged to involve other agencies and community-based organizations to carry out activities and to leverage additional resources, programs, and expertise. Applicants would receive additional scoring points for participation of the local community in the development and delivery of program services.

In section 220(c), the list of eligible uses of grant funds would be expanded beyond the existing eligible activities to include the following:

Community Policing would be an eligible activity. This approach has been effective in regaining control of crime-ridden neighborhoods. Providing police officers to specific neighborhoods on a consistent basis builds relationships with residents, thereby increasing information exchange which deters and prevents crime. Residents become less fearful of reporting crime and, therefore, participate in solutions to address crime problems. Foot or bicycle patrols, police substations in public housing, community relations officers, and other techniques which put the officer in more direct contact with the community have demonstrated results in reducing crime statistics.

Youth Initiatives would recognize public housing youth as an essential resource in solving community problems. Their enlistment can, in itself, be good prevention-programming. Youth can be coaches in recreational programs, peer mentors, and leaders in community solution action planning. More emphasis could be placed on training, education, recreation, career planning, employment, and substance abuse education and prevention. Youth programming should provide the opportunities, skills, and information needed for youth to make appropriate life-style choices and offer a deterrence to gang activity. The chapter would specifically authorize use of grants for youth initiatives such as training, education, after school activities, tutoring, recreation, career planning, employment and entrepreneur programs.

Resident Services Programs provide comprehensive resident services to effectively intervene and prevent crime activities in public housing populations. Services may include job training, educational programs, treatment, or other appropriate social services which address the contributing factors of crime.

Physical Security Hardware costs, such as fencing, lighting, locking and surveillance systems, would be allowable.

Technical Assistance

Under section 220(i), a variety of services would be initiated to provide support which fosters creativity and reinforces success. Support services would include program technical assistance, training, information dissemination, and evaluation. From the amounts appropriated for FY 1994 and FY 1995, $10 million would be used for the development and delivery of the following activities:

Development of a standardized assessment tool to assess the extent and nature of crime to be used in the initial application to demonstrate need and to serve as a baseline to track and evaluate outcome measures.

Development and delivery of technical assistance, training, and information services to share and promote effective programs.

Issuing evaluation contracts for an objective review of program effectiveness which incorporates the tracking of baseline data.

TITLE III—TECHNICAL AND OTHER AMENDMENTS

SUBTITLE A—PUBLIC AND ASSISTED HOUSING

Correct the Definition of Family in the 1937 Act To Clarify That Families Are Not Required To Include Children

Section 301 would amend section 3(b) of the U.S. Housing Act of 1937 to correct an unintended effect of section 621 of the HCD Act of 1992 on the definition of family. Under the current definition, families of two or more persons must qualify as elderly families, near-elderly families, disabled families or families with children. Read literally, it appears that married couples without children living in the household, and two adult siblings living together, are not eligible. The proposal would clarify that there is no requirement in the definition that families must include children.

The intent of section 621 was not to exclude families without children, but to define more carefully the other categories of eligible families, i.e., elderly families, near elderly families, and disabled families. Removal of the language requiring families to contain children will assure continued eligibility to the larger group of families traditionally served by the program, without detracting from the intent of section 621 to define the elderly, near-elderly, and disabled families as distinct family categories.

Eliminate Requirement for Identification of CIAP Replacement Needs

Section 302 would delete section 14(d)(2) of the U.S. Housing Act of 1937, which requires PHAs, when applying for CIAP public housing modernization funds, to identify the projected replacement needs for the equipment systems and structural elements of each project over a 30-year period. Section 14(d) formerly required CIAP agencies to identify not only the projected replacement needs (section 14(d)(2)), but also the estimated cost of such replacement (section 14(d)(4)(C)).

Section 509(b) of NAHA deleted section 14(d)(4)(C), which required applicants to estimate the total costs of replacement items identified in section 14(d)(2). The requirement that replacement needs be identified, absent any consequent estimate of cost, is burdensome to PHAs, and does not provide useful information to either PHA staff or HUD field staff. This amendment would delete section 14(d)(2), thereby eliminating this requirement entirely. Section 14(f)(1)(B) would be deleted since, with the previous deletion of section 14(d)(4)(C), it serves no purpose.

Applicability of Public Housing Amendments to Indian Housing

Section 303 would repeal section 201(b)(2) of the United States Housing Act of 1937. This provision states that amendments modifying the public housing program that are enacted after the Indian Housing Act of 1988 do not apply to Indian housing unless explicitly made applicable. This proposal would also make clear that certain amendments affecting the public housing program made by the Housing and Community Development Act of 1992 apply to the Indian Housing program.

Since its enactment in 1988, section 201(b)(2) has caused confusion as to which legislative amendments affecting the public housing program apply to Indian housing. Even where the law expressly applies to Indian housing, HUD staff and IHAs have trouble keeping straight which provisions in the 1937 Act and other Acts apply to the Indian housing program.

Even worse is the situation where there is no logical reason for an amendment not to apply to Indian housing, but Congress fails to include the section 201(b) boilerplate required to make the provision applicable. For example, the Housing and Community Development Act of 1992 made the following amendments affecting the public housing program that, because of failure to include the necessary boilerplate, do not apply to Indian housing.

Section 103(a)(1)—Amendment to exempt retroactive SSI payments from income.

Section 112—Amendment lowering the applicability of Federal preferences from 70% to 50% of units.

Section 114—Miscellaneous operating subsidy amendments.

Section 116—Miscellaneous demolition and disposition amendments.

Section 118—Public housing homeownership under section 21 (technical amendments).

Section 903—New consent form required for the release of applicant and participant information.

Section 927—Amendment to protect tenants who receive utility allowances from having their eligibility or benefits under energy assistance programs reduced or eliminated.

The repeal of section 201(b)(2) would avoid the inadvertent failure to provide that amendments to the public housing program apply to the Indian housing program. Section 201(b)(1) (retained in this amendment) provides, however, that unless otherwise specified, the provisions of the 1937 Act that apply to public housing apply to Indian Housing. Therefore, if the authors of future legislation involving public housing do not want it to apply to Indian housing, they will need to make that explicit. Such situations should, however, arise more infrequently than situations where the authors do want the amendments to apply to Indian Housing.

The bill makes it clear that the repeal of section 201(b)(2) is not intended to affect existing legislation that applies changes to public housing to the Indian housing program in accordance with the repealed authority.

In addition, as discussed above, there is no apparent reason why the amendments specified above were not made applicable to the Indian Housing program. Therefore, this proposal would make them applicable.

Increase the Unit Threshold Above Which PHAS Are Required To Adopt Project-Based Accounting

Section 304 would amend section 6(c)(4)(E) of the U.S. Housing Act of 1937 to increase the unit threshold (currently 250 units) above which PHAs are required to establish and maintain Project-Based Accounting (P-BA) systems. Applicability of these requirements to small PHAs (those with fewer than 500 units) constitutes severe overregulation and excessive paperwork. Nearly all comments received on the proposed rule for the P-BA program objected to the application of P-BA to PHAs with from 250 to 500 units. Management of small PHAs does not benefit from having to track expenditures by project. For these PHAs, mandatory implementation of P-BA would not be cost-effective. This proposal would increase the threshold number of units necessary to trigger P-BA requirements from 250 to 500 units. This would reduce the workload on small PHAs, and enable HUD to target its P-BA program to those medium-to-large PHAs which can best benefit from the additional information processing capability derived from P-BA.

SUBTITLE B—MULTIFAMILY HOUSING

Correct Errors in Multifamily Mortgage Limits

Section 310 would amend sections 207, 213, 220, and 234 of the National Housing Act to correct errors in multifamily mortgage limits for a four-bedroom, non-elevator unit. The amount would be changed from $59,160 to $56,160.

This provision is necessary because the amount of $59,160 does not reflect the 20% increase intended by amendments insection 509 of the HCD Act of 1992, apparently due to a typographical error. All other unit limits were increased by 20% in the 1992 Act.

FHA Multifamily Risk-Sharing HFA Pilot Program Amendments

Section 311 would amend section 542(c) of the HCD Act of 1992 which provided a new insuring authority for a partnership between HUD and the HFAs to process FHA mortgage insurance for loans for affordable multifamily housing. As written, the statute is silent in several essential areas. An amendment to the legislation is being recommended to include certain basic minimum program requirements which would provide protection to HUD's interests and ensure a successful program. Amendments are also recommended to permit qualified housing finance agencies to assume certain HUD administrative reviews.

Basic Protection

The National Housing Act provides certain basic protections which are not addressed by section 542(c). By permitting HFAs that take 50% or more of the risk to use their own underwriting standards and loan terms and conditions without further HUD review, the Department may be exposed to many of the more experimental or riskier mortgage financing techniques currently used in today's marketplace. These might include loan terms predicated on prepayment or refinancing before the end of the loan term (balloon and negative amortization loans), mortgages equal to or in excess of value or cost, and excessive loan repayment periods. At a minimum, the Department would want a cap on the loan-to-cost (or value) ratio and the mortgage term and to ensure that the loans are completely amortized by periodic payments. Traditionally, 90% loan-to-cost (or value) loans for for-profit owners with 40 year terms have been the norm. The Department would also want to encourage the use of complete amortization by periodic payments which would permit Level Annuity Payments typically used in HUD programs, as well as Accelerated Curtail Declining Annuity and Combination Declining Annuity plans.

Among the challenges to the provision of housing for low-income households are those presented by underwriting. Market adjustments to the challenges of underwriting have resulted in a proliferation of financing sources and mechanisms for these purposes. Typically, these deals require multiple financing sources, including delayed payment or other forms of soft secondary liens. In addition to the limitations proposed above, the Department would want to have a first lien for payment and require that all secondary liens must be subordinated to the insured loan.

Further, the Department's mission is to provide permanent forms of housing. Therefore, all loans insured under this program should be limited to non-transient housing with a lease term not less than 30 days. This would avoid any appearances that the insurance is being used to support hotels. Such a requirement would not preclude the development of single room occupancy projects.

Finally, to minimize potential losses, an accurate valuation of eligible projects is imperative. Accurate valuation of the property is important for calculating the mortgage to be insured and for disposing of the property in the event of default and settlement of insurance claims. The Uniform Standards of Professional Appraisal Practice (USPAP) are now the industry standard. By requiring appraisers to be Certified General Appraisers following USPAP guidelines, the Department will have greater assurance of an accurate property valuation and recourse.

Improvements to Program Operations

In addition to the basic protections, the Department has identified several features not addressed by the legislation which would facilitate the program's operations. Specifically, the statute failed to delegate certain responsibilities to the HFAs which would carry out the full intention of the law. As the legislation currently stands, HFA processing would be hampered by the need to have certain reviews performed by the HUD field offices.

The reviews required by the National Environmental Policy Act (NEPA) are lengthy and create an additional responsibility for the already overburdened field offices to carry out. The responsibility for this function would be assumed by States and units of general local governments, and performance of the environmental reviews and sign-off authority on behalf of the parent governmental entity could be delegated to the HFAs, in a manner similar to the NEPA reviews under section 104 of the Housing and Community Development Act of 1974. The Secretary would undertake a monitoring role on performance of the reviews and, where appropriate, could provide and facilitate training and suspend or terminate review responsibility. By undertaking these duties, the Secretary would not, however, be substituting the Secretary's judgment for that of the State or local official responsible for any individual environmental review. In other words, the Secretary would not, on the basis of these amendments, be required to recast the environmental review regulations so that disappointed opponents of local projects could appeal State or local environmental review decisions to the Secretary.

Similarly, lead-based paint prevention review responsibilities would be assumed by the HFAs. Responsibilitiesfor intergovernmental review would also be assumed, but a regulatory revision would achieve this goal.

To streamline the subsidy layering review, HFAs would be given explicit responsibility for the review following HUD guidelines and subject to HUD monitoring and sanctions. It would greatly facilitate implementation of section 542(c) if the HFAs, were applicable, could process the case and complete the subsidy layering review without delaying the development of affordable housing projects by requiring a separate HUD review.

The proposed legislation would add an explicit delegation of authority to the HFAs to commit the Department for mortgage insurance. An explicit authorization to delegate this authority is critical to the ability of the program to give the HFAs maximum authority to carry out the intent of this program.

Technical Clarification

The statute, as originally drafted, included contradictory language relative to risk sharing and sharing of losses in the event of a claim. It states variously that HFAs will reimburse HUD for all or a portion of losses incurred, that the Risk Sharing Agreements will specify the percentage of loss between HUD and the HFA, and that the HFA and the Secretary shall share equally the full amount of any loss. This last phrase in 542(c)(2)(C) conflicts with the other provisions and would be revised to read that the HFA and the Secretary shall share any loss in accordance with the Risk Sharing Agreement.

Subsidy Layering Review

Section 312 would amend section 911 of the Housing and Community Development Act of 1992 to make clear that in connection with HUD projects allocated a Low Income Housing Tax Credit (LIHTC), the requirements of section 102(d) of the HUD Reform Act of 1989 would be satisfied by a certification to the Secretary by a housing credit agency. An agency would certify that the combination of Federal assistance provided in connection with a project for which assistance is to be provided within HUD's jurisdiction and under the LIHTC provisions of section 42 of the Internal Revenue Code of 1986 shall not be any more than is necessary to provide affordable housing.

Housing credit agencies would submit this certification in accordance with guidelines established by the Secretary. These housing credit agencies would assume all of the responsibilities for subsidy layering review, decisionmaking, and action pursuant to section 102(d) of the HUD Reform Act, which would otherwise apply to HUD. As under current law, HUD could revoke a housing credit agency's authority if it failed to comply with the HUD guidelines. In that case, HUD would undertake the subsidy layering responsibilities.

Section 102(d) of the HUD Reform Act of 1989 directs HUD to undertake a "subsidy layering" review when other government assistance is being provided to a HUD project requesting HUD housing assistance. The requirement is designed to ensure that no more assistance than is necessary to make units affordable is provided to a project.

Section 911 of the Housing and Community Development Act of 1992 required HUD to establish guidelines for housing credit agencies administering the LIHTC to "implement" the subsidy layering requirements of section 102(d). Former President Bush, in his Signing Statement for the Housing and Community Development Act of 1992, stated that constitutional difficulties would rise if section 911 were interpreted to allow the Secretary to delegate the responsibilities under section 102(d) to a non-Federal entity. President Bush indicated that he interpreted section 911 to permit the Secretary to formulate guidelines under which the Secretary would retain the ultimate authority to make the determinations required by section 102(d).

This amendment is intended to resolve the conflict between sections 911 and 102(d), raised by President Bush in his Signing Statement, by making it clear that the non-Federal entity, in this case a housing credit agency, would assume all of the responsibility which the Secretary would otherwise have under section 102(d), and that the Secretary would have no continuing responsibility under that section once such an assumption was made. This parallels a provision proposed by HUD elsewhere in this bill for multifamily risk sharing.

This Department has been criticized for delaying development of LIHTC projects because of deleterious subsidy layering reviews. Enabling housing credit agencies to perform those reviews would expedite this process. This proposal would not only clarify the authority of housing credit agencies to perform these reviews, but also would relieve

the Secretary from any residual responsibility which the Secretary might otherwise have under section 102(d).●

By Mrs. KASSEBAUM:

S. 1300. A bill to amend the Public Health Service Act to unify the reauthorization cycle with respect to Centers for Disease Control and Prevention programs, and for other purposes; to the Committee on labor and Human Resources.

CDC REAUTHORIZATION UNIFICATION ACT OF 1993

● Mrs. KASSEBAUM. Mr. President, I am pleased to introduce legislation aimed at enhancing congressional oversight of the Centers for Disease Control and Prevention [CDC] and its individual programs. This legislation lays the ground work for a single reauthorization of the entire CDC on a regular cyclical basis beginning in 1995.

Currently, the CDC administers the majority of its programs under general Public Health Service Act authorities. Fifteen of these programs do, however, require periodic reauthorization. Presently, each of these programs is randomly reauthorized, without regard to the years in which the reauthorization of other CDC programs occur. The reauthorization of separate programs at different times makes it difficult for Congress to prevent program duplication or to enhance program coordination within CDC and across the entire Public Health Service.

Reauthorizing specific CDC programs in a piecemeal fashion limits the opportunity for Congress to provide oversight over all of the CDC. Over half of the CDC programs are operated under general Public Health Service Act authorities. Therefore, they do not currently receive regular authorizing committee oversight. A common reauthorization of specific CDC programs would provide a forum for Congress to evaluate the entire CDC.

Specific programs within a single agency can and should be reauthorized together. For instance, just this year Congress reauthorized the National institutes of Health and some of its specific programs in one comprehensive piece of legislation. In 1994, this body will consider the reauthorization of the Substance Abuse and Mental Health Services Administration, while in 1995, we will reauthorize the Agency for Health Care Policy and Research.

Mr. President, the legislation I am introducing today contains two major provisions. First, it changes the authorization dates to 1995 for all CDC programs not reauthorized by Congress this year. This will provide for a realignment of the current CDC program reauthorization schedule. Second, the legislation contains a sense of the Congress provision which provides that beginning in 1995, all CDC programs will be reauthorized on a common cyclical basis. In addition, this provision requires that any CDC program authorization or reauthorization bill Congress considers this year or next will provide for authorization of that specific program through 1995 only.

It is my intent to work with the chairman of the Committee on labor and Human Resources, Senator KENNEDY, to have the provisions in this legislation included in CDC program reauthorization legislation the committee will markup on Friday of this week.

Mr. President, I welcome any suggestions my colleagues or others may have for improving this legislation.

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

S. 1300

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 "CDC Reauthorization Unification Act of 1993".

SEC. 2. ALIGNMENT OF CURRENT CENTERS FOR DISEASE CONTROL AND PREVENTION REAUTHORIZATION SCHEDULE.

(a) LEAD POISONING PREVENTION.—Section 317A(l)(1) of the Public Health Service Act (42 U.S.C. 247b–1(l)(1)) is amended by striking "through 1977" and inserting "and 1995".

(b) PROSTATE CANCER PREVENTION.—Section 317D(l)(1) of such Act (42 U.S.C. 247b–5(l)(1)) is amended by striking "through 1996" and inserting "and 1995".

(c) CANCER REGISTRIES.—Section 399L(a) of such Act (42 U.S.C. 280e–4(a)) (as amended by section 2003(1) of Public Law 103–43) is amended by striking "each of the fiscal years 1995 through 1996" and inserting "fiscal year 1995".

(d) HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH AND DEMONSTRATION CENTERS.—Section 1706(e) of such Act (42 U.S.C. 300u–5(e)) is amended by striking "through 1996" and inserting "through 1995".

(e) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANTS.—Section 1901(a) of such Act (42 U.S.C. 300w(a)) is amended by striking "through 1997" and inserting "and 1995".

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that, beginning on the date of enactment of this Act and continuing through fiscal year 1995, all Acts regarding the authorization or reauthorization of Centers for Disease Control and Prevention programs should be authorized only through fiscal year 1995. Beginning in fiscal year 1995, Congress should reauthorize the Centers for Disease Control and Prevention and its programs in one comprehensive Act. After fiscal year 1995, reauthorization of such Centers and its programs should occur on a regular cyclical basis.●

By Mr. GRAHAM:

S. 1302. A bill to designate the Federal building in Jacksonville, FL, as the "Charles E. Bennett Federal Building"; to the Committee on Governmental Affairs.

CHARLES E. BENNETT FEDERAL BUILDING ACT OF 1993

● Mr. GRAHAM. Mr. President, today I am introducing legislation to name the Federal building in Jacksonville, FL, for former Congressman Charles E. Bennett.

When Charlie Bennett retired at the end of the 102d Congress at 81, he was the second-most senior member of the entire Congress, having devotedly represented the city of Jacksonville in the House of Representatives for 44 years.

Congressman Bennett's devotion to Jacksonville and tremendous service in Congress make the naming after him of a Federal building in Jacksonville a perfect tribute to him. After all, he spent his career in Congress fighting to make Jacksonville a better, more progressive place. And the people of Jacksonville appreciate his contributions on a daily basis.

Many of our colleagues in the Senate have also served in the House of Representatives at some point during their careers. And, though not all of them were in the House concurrently with each other, every single one of them served with Charlie Bennett. All of them were affected by Congressman Bennett's legislative achievements. It was his legislation that created the House Ethics Committee, and he authored the Code of Ethics for Government Service.

Mr. Bennett was also instrumental in converting Jacksonville's military installation into one of the Nation's premier military facilities. Evidence of the important role Jacksonville now plays was found during the Persian Gulf war, when Jacksonville was one of the principal staging areas for the tremendous task of transporting equipment and personnel to the gulf region.

Beyond his contributions to the quality of American government and the vitality of the Jacksonville community, Congressman Bennett's first love has always been the environment. I was privileged to work with Mr. Bennett on a series of environmental initiatives which have yielded great benefits to recreation in Florida. His years of experience gave him invaluable perspective on the evolving role of the Federal Government in preserving America's great heritage.

Mr. President, it is fair to say that no public official has done more for the city of Jacksonville than Charlie Bennett. The vision of Jacksonville's future which Mr. Bennett helped create includes a new Federal building in the center of downtown.

The legislation I am introducing today would name that building the "Charles E. Bennett Federal Building." This bill is but a token of the appreciation America owes to Congressman Bennett. I ask that the bill be printed in the RECORD following my remarks and am hopeful that the Senate will grant it swift approval.

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

S. 1302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building at 400 Bay Street in Jacksonville, Florida, is designated as the "Charles E. Bennett Federal Building". If a new Federal building is built in Jacksonville, Florida, to replace the building at 400 Bay Street, the new Federal building shall be designated as the "Charles E. Bennett Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in and any law, regulation, document, record, map, or other paper of the United States to the Federal building referred to in section 1 is deemed to be a reference to the "Charles E. Bennett Federal Building".●

By Mr. HATCH (for himself and Mr. BOREN):

S. 1303. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

QUALITY ASSURANCE IN THE PRIVATE SECTOR DRUG TESTING ACT

Mr. HATCH. Mr. President, I join today with my good friend and colleague from Oklahoma, Senator BOREN, in sponsoring the Quality Assurance in the Private Sector Drug Testing Act, a bill to regulate workplace drug testing in the United States. The text of this measure is identical, except for a conforming change in the date, to S. 2008, which Senator BOREN and I sponsored in the last Congress.

Substance abuse, including drug abuse, remains a very high public health priority, which, unfortunately, often does not receive the attention it deserves. Continued support for prevention, early intervention, treatment, education, and community-centered initiatives are all elements in our national strategy to combat drug abuse. Equally important are employer-based initiatives, including education, testing, and appropriate followup.

Recently, the Robert Wood Johnson Foundation published its 1992 annual report, "Substance Abuse * * * To Promote Health and Prevent Disease by Reducing Harm Caused by Substance Abuse." In the forward to that report, the foundation outlined in very graphic terms the horrors of substance abuse:

> It is the worst of plagues. It knows no season and no boundaries. No mosquito will be identified, no microbe isolated, no vaccine invented to end its reign. It is a pestilence with all the classic trappings of social disruption, suffering and death.

The Robert Wood Johnson report goes on to outline the dramatic ramifications of substance abuse, noting that: "The cost to business in lost productivity, absenteeism, and health insurance premiums is astronomical."

Mr. President, the wreckage of drug abuse in our society continues to pile up. While progress occurs here and there—and we have had some small successes—this epidemic has still not been brought under control. Until we do, we can expect to see more broken families, more ruined careers, more crime and violence, more cases of AIDS and TB, more workplace injury and, importantly, less workplace productivity.

It is ironic that, with our increasingly sophisticated debate about health care cost growth and the factors that lead to that growth, the enormous expense that drug abuse imposes on our medical and social services systems, not to mention on employers, has been largely left out of the debate.

A large part of the drug abuse that occurs in this country is by people who are employed, although that is not the stereotype. Thus, it becomes clear that a key element in controlling drug abuse is workplace-based programs.

There is an increasing body of evidence that well designed drug-free workplace campaigns do help reduce drug abuse rates and that a well designed drug testing program can be a vital component of those plans.

The legislation I introduce today with Senator BOREN would accomplish two functions: It would subject private sector workplace drug testing to a system designed to ensure accuracy and reliability of tests; and it would make uniform an employer's ability to test under certain circumstances while offering protections and remedies to employees.

Specifically, S. 1303 requires all private sector testing to be performed in a laboratory certified in accordance with enumerated standards. Although implementing details are left up to the Department of Health and Human Services to develop, the bill provides a framework of required standards in every area necessary for good testing: specimen collection; chain-of-custody; quality assurance; and staff training, to name a few examples.

Our legislation ensures that the HHS implementing regulations will be crafted particularly for the private sector, taking into account the realities of the workplace and the many successful, ongoing, business-run programs. In particular, specific provision is made for a separate certification track for screen-testing-only facilities, which would preserve and regulate, among others, the on-site testing so important in the workplace.

Employers will have predictability, through preemption, in the design of multistate drug testing programs and will clearly have the ability to institute universal random testing. This testing would cover all employees, including management; this is increasingly being adopted in the workplace with good results.

The Hatch-Boren bill will benefit employees, who can have the confidence that the test procedures and results will be fair and accurate. Further, employees are provided, among other protections, the guarantee that all positive screen test results will be confirmed by a certified laboratory. As an additional safeguard, the bill contains a set of remedies for damages and equitable relief for improper testing, failure to maintain confidentiality, and other violations.

I note that S. 1303 is supported by a wide range of employers, including Halliburton/Brown & Root, Rockwell International, the Labor Policy Association, and the National Association of Stevedores. I hope my colleagues will study this legislation carefully and join us in supporting the measure.

Mr. BOREN. Mr. President, I am pleased once again to introduce the Workplace Anti-Drug Abuse Act, a bill that addresses the need for a comprehensive drug testing and enforcement policy in the workplace. This act, which I put forward today together with my colleague Senator HATCH, provides specific guidelines for drug testing in the workplace, and clearly outlines the rights of workers with respect to such testing.

Although national attention may no longer be focused on the problem of drugs and their corrupting effect on our society, the plague of drugs is far from over. Drugs still permeate the entire social fabric of our Nation. The crippling power of drugs is destroying the future of our youth who fall under their influence and undercuts the years of hard work and accomplishments of drugs' adult victims. On the streets, they cause violence that has become so commonplace that today only the most brutal atrocities are able to shock us. In our homes, drugs tear apart families and strike at the very foundation of this country.

The workplace has not been left untouched by this drug epidemic. Gang wars and other acts of high-profile violence are not the problem here; drugs in the workplace cause a quieter, more subtle form of damage. Here, drugs not only fatally infect the lives of workers who use them, but drugs also cost the country $60 billion a year in worker accidents, insurance, lost productivity and absenteeism.

Drug testing and enforcement in the workplace naturally raises some important issues concerning the rights and privacy of employees. This bill addresses these concerns with comprehensive guidelines that an employer instituting such a drug testing program must follow. It also requires that such drug tests be conducted by reliable, federally certified labs. This bill does not unilaterally force any employer to institute a drug program; these guidelines are solely intended for employers who voluntarily institute such a program.

This legislation also emphasizes prevention over punishment and is designed to include provisions that will keep drugs out of the workplace before they can become a serious problem.

The act requires an employer who conducts drug tests to have a written anti-drug abuse policy so that employees are aware of the consequences of drug use. In addition, employers must have a drug awareness program. Using such an approach, many workers will be spared the pain and agony caused by drugs. Testing is a last resort and will identify those who have succumbed to the temptation of drugs. Identifying these victims will allow them to receive timely treatment, before they cause irreparable damage to themselves or their employer.

This bill provides employers with uniform and predictable standards for the implementation and operation of drug-testing programs, while it assures employees that testing will be conducted in an accurate and objective fashion. I urge all Senators to support this legislation, which is fair to both employers and employees and represents an important step toward ridding our Nation's workplaces of drugs.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 1304. A bill to amend the Federal Water Pollution Control Act to improve the conservation of wetlands and thereby restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and for other purposes; to the Committee on Environment and Public Works.

THE WETLANDS CONSERVATION AND REGULATORY IMPROVEMENTS ACT OF 1993

• Mr. BAUCUS. Mr. President, I am introducing legislation today with Senator CHAFEE to better conserve wetlands and to improve the regulation of wetlands development under section 404 of the Clean Water Act.

Wetlands are our most important aquatic environments. They help maintain and improve water quality by removing and retaining nutrients, processing wastes, and reducing sediment. They temporarily store flood waters, acting like large sponges, and thereby reduce downstream flood peaks and protect property owners from flood damage. By recharging groundwater, wetlands help maintain watertable levels needed to provide irrigation and drinking water supplies and to prevent loss of soil moisture.

Wetlands sustain most of the Nation's fisheries. Nearly all recreationally important freshwater fish are dependent upon wetlands and associated nearshore waters for spawning sites, nursery areas, and sources of food. Wetlands are especially important as breeding grounds, overwintering areas, and feeding sites for waterfowl and many other migratory birds. These aquatic habitats also support over one-third of all threatened and endangered species in the United States.

Each year in Montana, nearly 400,000 people spend over $160 million to go fishing. Almost 30,000 people spend millions of dollars more hunting waterfowl. Nearly three Montanans out of every five enjoy watching and photographing waterfowl and other wildlife species.

Nationwide, wetlands sustain the fisheries and wildlife that generate annual expenditures in excess of $40 billion.

Unfortunately, the food, recreation, and jobs provided by wetlands are in jeopardy. The U.S. Fish and Wildlife Service, recently estimated that wetland losses averaged nearly 300,000 acres per year from the mid-1970's to the mid-1980's

More than 50 percent of the wetlands in the lower 48 States that existed in the late 18th century have been lost. The State of Montana has fared better than the national average, but it still has lot more than a quarter of its original wetlands.

Section 404 of the Clean Water Act protects wetlands and other waters from the adverse effects of filling. In preventing and minimizing wetlands loss and degradation, the section 404 program is essential to achieving the Clean Water Act's goal of restoring and maintaining "the chemical, physical, and biological integrity of the Nation's waters."

When wetlands are filled, water quality deteriorates, property owners are made more susceptible to flood damage, watertable levels drop, waterfowl populations decline, and fisheries and shellfisheries suffer.

Section 404 remains a critical component of this Nation's effort to have healthy aquatic environments. But from almost anyone's perspective, there are problems with this program.

It is confusing. It is difficult for the public to understand the program's requirements and, therefore, how to comply with them. It is particularly difficult for farmers and ranchers to sort through and reconcile the various requirements of section 404 and the swampbuster provisions of the Food Security Act.

It is often financially or technically difficult for small landowners to take the steps, such as identification and delineation of wetlands, necessary to even apply for a section 404 permit to fill portions of a wetland.

The section 404 permit process can still drag on for too long without a decision one way or another. And permit applicants have no avenue other than the courts to appeal a decision on their application.

The current section 404 program does not adequately encourage and facilitate State involvement in wetlands protection efforts. And there is a need for better coordination of these efforts at all levels of government.

Wetlands are destroyed in many ways other than by filling, such as draining and excavation, which are not now regulated under section 404.

Wetlands losses also have remained high in part because cumulative impacts are difficult to assess and address under the section 404 permitting process. This individual permit process also results in piecemeal mitigation efforts that are often unduly burdensome to the permit applicant, poorly monitored for compliance, and ineffective in achieving environmental goals.

Current Federal and State wetland protection efforts also too often fail to look beyond impacts to a specific wetland and to consider the effects on the watershed.

The Wetlands Conservation and Regulatory Improvements Act of 1993 being introduced by Senator CHAFEE and I today addresses these and other problems with the current section 404 program to improve the effectiveness, fairness and flexibility of the program without jeopardizing a critical national asset—our remaining wetlands resource base.

The bill has four major goals?

First, the efficiency, consistency and fairness of the regulatory program;

Second, make it easier for farmers and ranchers to comply with Federal wetlands protection efforts;

Third, build a stronger partnership for wetlands conservation between Federal agencies and the States; and

Fourth, enhance the protection and restoration of wetlands nationwide.

REGULATORY PROGRAM IMPROVEMENTS

To improve the operation of the section 404 regulatory program, the bill requires substantial education, outreach, and information efforts to help the public understand the program and improve their ability to comply with its requirements. In addition, the bill provides technical assistance in delineating wetlands for small landower permit applicants.

The bill sets tight deadlines for permit processing and requires even shorter permit processing times for wetlands within an approved wetlands and watershed management plan.

The bill establishes a process for appeal of permit decisions.

To move away from piecemeal mitigation efforts that are often unduly burdensome to the permit applicant, poorly monitored for compliance, and ineffective in achieving environmental goals, the bill authorizes use of mitigation banks. While there is potential for abuse in the use of banks, the bill recognizes that, with appropriate safeguards, they also have the potential to be a more efficient and effective means of not only offsetting unavoidable wetlands losses, but of increasing the quality and quantity of the Nation's wetlands resource base through restoration efforts.

To ensure predictability in the identification and delineation of wetlands, the bill writes into law the definition of wetlands that has been in the section 404 regulations unchanged since 1977.

The bill then mandates continued use of the 1987 Corps of Engineers Wetlands Delineation Manual until a new manual is developed. Development of a new manual would have to be done: First, with opportunity for public review and comment; second, in consultation with the States; third, on the basis of the best available scientific information; and fourth, in a way that takes into account regional variations in soils, hydrology, and vegetation. No new delineation manual could be issued until the National Academy of Sciences issues its report on this subject, which is expected late next year.

SIMPLIFIES FARMER/RANCHER COMPLIANCE

To make it easier for farmers and ranchers to comply with both section 404 and the wetlands provisions of the Food Security Act, the bill exempts prior converted croplands from regulation under section 404.

In addition, the bill exempts wetlands areas established in uplands, such as stock ponds and areas created by irrigation.

The bill provides for issuance of regulations that generally authorize under section 404—through a so-called general permit—any activity found by the Soil Conservation Service to be exempt under the mitigation and minimal effect provisions of the Food Security Act's swampbuster program. Consequently, farmers and ranchers will be dealing with the SCS on these determinations, and to the extent necessary, SCS will be dealing with the Corps of Engineers.

In addition, the bill requires that EPA, the corps, and SCS develop consistent policies regarding wetlands determinations on agricultural lands under both the Food Security Act and the Clean Water Act, so that as much as possible, a determination by one agency under one of these laws will be accepted by another agency under the other law.

The bill also clarifies that haying and grazing are included within those normal farming activities that are exempted from regulation under section 404.

INCREASED OPPORTUNITY FOR STATE INVOLVEMENT

To provide increased opportunity for State involvement in wetlands conservation and regulation, the bill authorizes, with appropriate safeguards, State—and within an approved watershed plan—local—program general permits to increase State flexibility and speed permit processing.

The bill authorizes and provides funding for State wetlands planning and for State and local wetlands and watershed management planning. And the bill establishes a State/local/Federal committee to coordinate wetlands conservation and restoration efforts.

ENHANCING WETLANDS PROTECTION AND RESTORATION EFFORTS

Finally, to enhance wetlands protection and restoration efforts under the Clean Water Act, the bill first makes wetlands protection and restoration a goal of the Clean Water Act.

The bill expands the activities subject to regulation to include draining, excavation, ditching, and mechanized land-clearing of wetlands.

To help Federal and State wetland protection efforts to look beyond impacts to a specific wetland and to consider the effects on the watershed in which the wetland is located, the bill encourages the development of wetlands and watershed management plans. These plans will result in a more comprehensive and integrated approach to wetlands protection.

And the bill directs Federal agencies and the States to establish a National Wetlands Restoration Strategy.

The Wetlands Conservation and Regulatory Improvements Act of 1993 is sincere effort to find common ground in improving a very controversial program. In developing the bill, we have reached out to the administration, to our colleagues, to the States, and to many other affected and interested parties in a pragmatic effort to both improve protection of wetlands and to improve the regulatory process under current Federal laws.

The Subcommittee on Clean Water, Fisheries, and Wildlife of the Committee on Environment and Public Works, chaired by Senator GRAHAM, will conduct a hearing in early September on this bill and on protection and regulation of wetlands generally under the Clean Water Act.

We have introduced the bill at this time to provide our colleagues and the various interested and affected parties an opportunity to thoroughly review it. This legislation will be combined in the committee markup process with the Clean Water Act reauthorization bill, S. 1114.

I look forward to working with each of you as the committee proceeds to develop Clean Water Act legislation for consideration by the full Senate later this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1304

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 "Wetlands Conservation and Regulatory Improvements Act".

SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 3. DECLARATION OF POLICIES AND GOALS.

Section 101(a) (33 U.S.C. 1251(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "and"; and

(3) by adding at the end the following:

"(8) it is the national policy to achieve, through regulatory and non-regulatory strategies involving all levels of government—

"(A) the restoration of wetlands to increase the quality and quantity of the wetlands resource base of the United States; and

"(B) no overall net loss of the remaining wetlands resource base of the United States.".

SEC. 4. DEFINITION AND DELINEATION OF WETLANDS.

(a) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended—

(1) in paragraph (7) by inserting ", including wetlands" immediately before the period.

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

"(21) The term 'wetlands' means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, fens, potholes, playa lakes, vernal pools, and similar areas.".

(b) DELINEATION OF WETLANDS.—

(1) REVISIONS TO DELINEATION PROCEDURES.—After the date of enactment of this Act, no revisions to or clarifications of the guidelines for identifying and delineating wetlands areas under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a)), as amended by this Act, shall be issued until the National Academy of Sciences has completed the study of wetlands authorized by Public Law 102-389.

(2) CONTINUED USE OF 1987 MANUAL.—Until the guidelines for identifying and delineating wetlands areas are issued pursuant to section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a)), as amended by this Act, the Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency shall use the January, 1987, Corps of Engineers Wetlands Delineation Manual and implementing guidelines to identify and delineate such wetlands areas.

(3) DELINEATION GUIDELINES.—Section 404(a) (33 U.S.C. 1344(a)) is amended by inserting "(1)" after "(a)" and by adding the following new paragraph:

"(2) The Administrator in conjunction with the Secretary, the Secretary of Agriculture and the Secretary of the Interior shall, after field testing and notice and opportunity for public review and comment, issue guidelines to identify and delineate wetlands areas. The guidelines shall—

"(A) be developed in consultation with the States;

"(B) be based on the best available scientific information; and

"(C) take into account regional variations in hydrology, soils and vegetation.".

(4) DELINEATION TRAINING, CERTIFICATION AND OUTREACH.—

(A) TRAINING OF WETLANDS DELINEATORS.—The Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency shall, in consultation with the Coordinating Committee established under section 323 of the Federal Water Pollution Control Act, as amended by this Act, develop

materials and conduct training courses for consultants and State and local governments to explain the guidelines for identifying and delineating wetlands areas pursuant to section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a)), as amended by this Act.

(B) FUNDING FOR TRAINING AND CERTIFICATION PROGRAM.—Of amounts appropriated for each fiscal year beginning after the date of the enactment of this Act for administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) by the Corps of Engineers, the Secretary of the Army, with the Administrator, shall use such amounts as are practicable to carry out the Corps of Engineers Program for interagency wetlands delineation training and the program for training and certification of Federal employees and other individuals as wetlands delineators authorized by section 307(e) of the Water Resources Development Act of 1990 (Public Law 101-640).

(5) ASSISTING SMALL LANDOWNERS WITH WETLANDS DELINEATION.—

(A) IN GENERAL.—Of amounts appropriated for each fiscal year beginning after the date of enactment of this Act for administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency shall use such amounts as are necessary, but not to exceed a combined total of $5,000,000, to assist private landowners who lack the financial capacity to identify or delineate wetlands in order to apply for permits under that section or to avoid impacts to wetlands.

(B) FORM OF ASSISTANCE.—The assistance under subparagraph (A) shall be provided in cooperation with the Director of the U.S. Fish and Wildlife Service and the Chief of the Soil Conservation Service and shall include:

(i) the delineation of wetlands boundaries within 90 days of a request for such delineation to the maximum extent practicable; and

(ii) technical assistance to owners of wetlands in the preparation of wetlands management plans for their lands to protect and restore wetlands and meet other goals of the Federal Water Pollution Control Act, including protection and propagation of fish, shellfish, and wildlife, control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

(C) REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary and the Administrator shall issue regulations defining the scope of technical assistance and which landowners are eligible for assistance under this paragraph.

(6) EDUCATION AND INFORMATION.—The Secretary of the Army, acting through the Chief of Engineers, and the Administrator of the Environmental Protection Agency shall, in cooperation with the Coordinating Committee established under section 323 of the Federal Water Pollution Control Act (as amended by this Act), prepare, update on a biannual basis, and make available to the public for purchase at cost—

(A) an indexed publication containing all federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities pursuant to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(B) information to enable the general public to understand the delineation of wetlands, section 404 permitting requirements, wetlands restoration, and other matters considered relevant.

SEC. 5. REGULATION OF ACTIVITIES.

(a) DEFINITION OF FILL MATERIAL.—

(1) Section 404(d) (33 U.S.C. 1344(d)) is amended —

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2) The term 'fill material' as used in this section means any material that has the effect of replacing portions of navigable waters or changing the bottom elevation or configuration of a water body.".

(2) Section 502(6) (33 U.S.C. 1362(6)) is amended by inserting "fill material, dirt," after "dredged spoil,".

(b) DEFINITION OF DISCHARGE OF DREDGED OR FILL MATERIAL.—Section 404(d) (33 U.S.C. 1244(d)), as amended by this Act, is amended by adding at the end the following:

"(3) The term 'discharge of dredged or fill material' means any additionof dredged or fill material into navigable waters and includes, without limitation, any addition or redeposit of dredged or fill materials, including excavated materials, into the navigable waters which is incidental to any activity, including draining, mechanized landclearing, ditching, channelization, or other excavation that has or would have the effect of destroying or degrading any area of navigable waters.".

SEC. 6. PERMIT PROCESSING IMPROVEMENTS.

(a) PERMIT DECISION DEADLINES.—Section 404(a) (33 U.S.C. 1344(a)), as amended by this Act, is amended by adding the following new paragraphs:

"(3) Except as provided in paragraph (4), a decision with respect to an application for a permit under paragraph (1) shall be made not later than the 90th day after the date the notice of such application is published under paragraph (1).

"(4) The Secretary's decision with respect to an application for a permit under paragraph (1) may be made after the 90th day referred to in paragraph (3), only if—

"(A) with respect to issuance of the permit, the Secretary is required under the National Environmental Policy Act of 1969, as amended, to issue an environmental impact statement, in which case the decision shall be made within 30 days of date on which the requirements of that Act are met;

"(B) the permit application involves an activity that may affect any species that is listed or any critical habitat that is designated under the Endangered Species Act of 1973, as amended, in which case the decision shall be made within 30 days of the date on which the requirements of that Act are met;

"(C) the Administrator, the Secretaries of the Departments of Agriculture, the Interior, Commerce, or Transportation, the head of another appropriate Federal agency, or the Governor of the State in which the activity occurs requests that the decision be made after such day, in which case the decision shall be made not later than the 150th day after the date the notice of application is published under paragraph (1);

"(D) the Secretary and the permit applicant determine that additional time is needed to evaluate such application; or

"(E) the decision is precluded as a matter of law or procedures required by law.".

(b) DEADLINES ON PROHIBITION OR RESTRICTION OF ACTIVITIES BY ADMINISTRATOR.—Section 404(c) (33 U.S.C. 1344(c)) is amended by adding at the end the following new sentence: "The Administrator shall make any determination under this subsection to prohibit or restrict any discharge into navigable waters resulting from an activity for which a permit may be issued under subsection (a) not later than the 180th day after the date of a decision with respect to an application for such a permit under subsection (a).".

(c) ADMINISTRATIVE APPEAL OF PERMIT DECISIONS.—

(1) IN GENERAL.—Section 404(a) (33 U.S.C. 1344(a)), as amended by this Act, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, after notice and an opportunity for public comment, issue rules establishing procedures under which—

"(A) an applicant for a permit under paragraph (1) or any person who participated in the public comment process regarding such permit application may appeal a decision under this subsection with respect to such a permit; and

"(B) an appeal shall be heard and decided by an official other than the person who made the decision with respect to such a permit.".

(2) DEADLINE FOR ISSUANCE OF RULES.—The Secretary shall issue rules under section 404(a)(5) (33 U.S.C. 1344(a)(5)), as amended by this Act, by not later than 180 days after the date of the enactment of this Act.

SEC. 7. GENERAL PERMIT IMPROVEMENTS.

Section 404(e) (33 U.S.C. 1344(e)) is amended to read as follows:

"(e)(1) IN GENERAL.—In carrying out the functions of the Secretary under this section relating to the discharge of dredged or fill material, the Secretary may, after notice and opportunity for a public hearing, issue general permits.

"(2) CATEGORIES OF ACTIVITIES.—General permits may be issued on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretarydetermines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only a minimal cumulative adverse effect on the environment.

"(3) STATE AND LOCAL PROGRAMS.—

"(A) IN GENERAL.—A general permit may be issued for an existing State, Tribal, regional or local regulatory program to avoid unnecessary duplication of requirements by Federal, State, Tribal, regional, and local programs if the general permit—

"(i) requires that the State, Tribal, regional, or local regulatory program has jurisdiction over the activities and waters within the scope of the general permit;

"(ii) provides adequate safeguards to ensure that the State, Tribal, regional, or local regulatory program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the navigable waters as that provided by this section;

"(iii) provides at least the same opportunity for public review, comment and hearings as that provided by this section; and

"(iv) includes provisions to provide an opportunity for the Secretary, the Administrator, the Secretary of the Interior (acting through the Director of the U.S. Fish and Wildlife Service), and the Secretary of Commerce (acting through the Administrator of the National Oceanic and Atmospheric Administration) to review permit decisions submitted to the State, Tribal, regional, or local regulatory agency to ensure that the requirements of this subsection are met.

"(B) After December 31, 1996, a general permit shall not be issued or remain in effect for a local regional regulatory program unless the program is part of a wetlands and watershed management plan approved under section 322, and the responsible unit of government has the legal authority and scientific monitoring capability to issue, monitor, and enforce permits in compliance with

the requirements of the plan and the terms and conditions of the general permit.

"(4) SWAMPBUSTER.—A general permit may be issued for discharges of dredged or fill material associated with activities found by the Secretary of Agriculture, in consultation with the Secretary of the Interior acting through the Director of the U.S. Fish and Wildlife Service, to be exempted from the ineligibility provisions of section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) pursuant to section 1222(f) and (h) of that Act if the general permit—

"(A) provides adequate safeguards to ensure that the activities exempted will have no more than minimal individual and cumulative impacts on the environment; and

"(B) includes provisions to provide an opportunity for the Secretary and the Administrator to review determinations by the Secretary of Agriculture to ensure that the terms and conditions of the general permit and the requirements of this subsection are met.

"(5) REQUIREMENTS APPLICABLE TO GENERAL PERMITS.—

"(A) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after notice and opportunity to request a public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits or a State, Tribal or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State, Tribal, regional or local program general permits issued under paragraph (3).

"(B) Any general permit issued under this subsection shall—

"(i) be based on the guidelines developed pursuant to subsection (b)(1); and

"(ii) set forth requirements and standards which shall apply to any activity authorized by such permit, including specific enforceable requirements and standards for mitigation of adverse impacts to wetlands and other navigable waters.".

SEC. 8. COORDINATION AND CLARIFICATION OF PROGRAM CONCERNING AGRICULTURAL ACTIVITIES.

(a) COORDINATION WITH AGRICULTURAL PROGRAMS.—Section 404(q) (33 U.S.C. 1344(q)) is amended by inserting "(1)" after "(q)" and by adding the following new paragraph:

"(2) Not later than 180 days after the date of enactment of this subsection, the Secretary, the Administrator, the Secretary of the Interior, and the Secretary of Agriculture shall enter into agreements to develop consistent criteria and procedures for making technical determinations under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) and this section concerning wetlands located on agricultural lands, including but not limited to the delineation of wetlands and prior converted croplands and to provide information and education concerning these criteria and procedures.".

(b) EXEMPTION FOR PRIOR CONVERTED CROPLAND.—Section 404(f) (33 U.S.C. 1344(f)) is amended by adding the following new paragraph:

"(3)(A) Areas determined in accordance with subparagraph (B) to be prior converted cropland shall not be considered to be navigable waters.

"(B) The Secretary, the Administrator, the Secretary of Agriculture, and the Secretary of the Interior shall promulgate regulations, after notice and opportunity for public review and comment, for identifying areas that meet the description under subparagraph (A) for administering the programs established under this section and subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.).".

(c) OTHER EXEMPT WATERS AND AREAS.—Section 404(f) (33 U.S.C. 1344(f)), as amended by this Act, is amended by adding the following new paragraph:

"(4)(A) For purposes of this section, the following shall not be considered to be navigable waters:

"(i) nontidal drainage and irrigation ditches excavated in uplands;

"(ii) artificially irrigated areas which would revert to uplands if the irrigation ceased;

"(iii) artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing;

"(iv) artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons;

"(v) water-filled depressions created in uplands incidental to construction activity and pits excavated in uplands for the purpose of obtaining fill, sand, or gravel, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States; and

"(vi) artificial stormwater detention areas and artificial sewage treatment areas that are not modifications of navigable waters.".

(d) EXEMPTED ACTIVITIES.—Section 404(f)(1) 33 U.S.C. 1344(f)(1)) is amended to read as follow:

"(f)(1) Except as provided in paragraph (2), the discharge of dredged or fill material into navigable waters—

"(A) from normal farming, silviculture, and ranching activities, such as haying, grazing, plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures;

"(C) for the purpose of construction or maintenance of farm orstock ponds or irrigation ditches, or the maintenance of drainage ditches;

"(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not involve a discharge of fill into navigable waters;

"(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the read of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will otherwise be minimized; or

"(F) resulting from any activity with respect to which a State has an approved program under section 208(b)(4) which meets the requirements of subparagraph (B) and (C) of such section,

is not prohibited by or otherwise subject to regulation under this section or section 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307).".

(e) COOPERATION WITH SECRETARY OF AGRICULTURE.—Section 404(f) (33 U.S.C. 1344(f)), as amended by this Act, is amended by adding the following new paragraph:

"(5) In carrying out this subsection, the Secretary and the Administrator shall coordinate their efforts with the Secretary of Agriculture.".

SEC. 9. MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end thereof the following new section:

"(u) MITIGATION BANKS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 1 year after the date of the enactment of the Wetlands Conservation and Regulatory Improvements Act of 1993, the Secretary and the Administrator shall jointly issue rules, after notice and opportunity for public review and comment, for establishment, use, maintenance and oversight of mitigation banks.

"(B) PROVISIONS AND REQUIREMENTS.—Rules for establishment, use, maintenance and oversight of mitigation banks shall ensure that mitigation banks—

"(i) comply with the guidelines under subsection (b)(1);

"(ii) to the extent practicable and environmentally desirable, provide in-kind replacement of lost wetlands functions and be located on or in proximity to the same watershed as impacted wetlands;

"(iii) provide for the long-term security of ownership interests of wetlands and uplands on which projects are conducted to protect the wetlands values associated with the mitigation bank;

"(iv) employ consistent and scientifically-sound methods to determine debits by evaluating wetlands functions and project impacts at the sites of proposed permits for discharges of dredged or fill material pursuant to this section, and methods to be used to determine credits based upon wetlands functions, values, and acreages at the sites of mitigation banks;

"(v) base fee charges for participation in the mitigation bank on the full costs of replacing lost wetlands functions and acreage, including the costs of land acquisition, wetlands establishment, management measures, long-term maintenance, monitoring, and protection, potential remediation of project failure, and other relevant factors;

"(vi) shall specify responsibilities for long-term monitoring, maintenance, and protection; and

"(vii) shall provide opportunity for public review of proposals for mitigation banks through one or more opportunities for public notice and comment.

"(2) DEFINITION.—As used in this subsection, the term "mitigation bank" means wetlands restoration projects undertaken by one or more parties, including private and public entities, expressly for the purpose of providing, in advance, mitigation compensation credits to fully offset reasonably foreseeable wetlands losses from future discharges of dredged or fill material into the navigable waters, where compensatory mitigation at the project site is not practicable or is not environmentally desirable.".

SEC. 10. GRANT AUTHORITY FOR RESEARCH, INVESTIGATION, AND TRAINING.

Section 104 (33 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(v) The Secretary of the Army, acting through the Chief of Engineers, is authorized to make grants to and enter into cooperative agreements with State agencies, interstate agencies, other public or non-profit agencies, institutions, organizations and individuals for purposes stated in paragraph (1) of subsection (a) of this section.".

SEC. 11. REPORTS AND ANALYSIS.

"(a) EFFECTS OF PROGRAM ON WETLANDS.—Section 404(a) (33 U.S.C. 1344(a)), as amended by this Act, is amended by adding at the end of the following new paragraph:

"(6)(A) The Secretary, the Administrator, and the States which have a permit program approved under subsection (h) (2) shall collect and make available to the Congress and the public every 2 years information regarding the effects on navigable waters of activities conducted under permits (including general permits) issued pursuant to this section, including—

"(i) the number of permit applications that were granted, withdrawn or denied;

"(ii) estimates of the total acreage of navigable waters affected adversely by issuance of individual permits;

"(iii) estimates of the acreage of navigable waters affected by each general permit, in order to determine whether the individual and cumulative adverse environmental effects of activities authorized by each general permit are minimal; and

"(iv) estimates of the acreage of navigable waters preserved or restored through mitigation of permitted activities and the rate of compliance with such mitigation requirements.

"(B) MONITORING.—For purposes of preparing reports under this paragraphs, the Secretary, the Administrator, and the Secretary of the Interior shall jointly monitor the achievement of the policy stated in section 101(a) (8) under permits issued under this section.".

"(b) NEEDS ANALYSIS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress an analysis of the needs of the Department of the Army, the Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service for additional personnel, administrative resources, and funding to improve implementation of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and to carry out the provisions of this Act.

(2) CONTENTS.—The analysis submitted under this subsection shall—

(A) give particular emphasis to the needs of the agencies identified in paragraph (1) with respect to improving and expediting wetlands delineation and section 404 permitting, including advance planning and early consultation;

(B) include specific recommendations regarding additional appropriations and staffing necessary for that improvement and expedition; and

(C) include specific recommendations concerning allocation of additional appropriations and staffing to the regional, district and field offices of the agencies identified in paragraph (1) according to the workload of those offices.

SEC. 12. WETLANDS CONSERVATION, MANAGEMENT AND RESTORATION.

(a) FUNDING FOR STATE WETLANDS CONSERVATION PLANS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting immediately before the semicolon "and for the development and implementation of State wetlands conservation plans under section 321".

(b) WETLANDS CONSERVATION, MANAGEMENT AND RESTORATION.—Title III (33 U.S.C. 1311 et seq.) is amended by the adding at the end of the following new sections:

"SEC. 321. STATE WETLANDS CONSERVATION PLANS.

"(a) DEVELOPMENT AND IMPLEMENTATION ASSISTANCE.—Subject to the requirements established by the Administrator and this section, the Administrator is authorized to make grants to States to assist in the development and implementation of State wetlands conservation plans.

"(b) CONTENTS OF PLANS.—To qualify for assistance under subsection (a), a State wetlands conservation plan shall generally include:

"(1) management strategies and policies for achieving within the State the goal under section 101(a)(8);

"(2) an inventory of wetlands resources in the State;

"(3) a description of the major causes of wetlands loss and degradation in the State, including an estimate of historical wetlands losses;

"(4) a description of State and local government programs applying to wetlands resources in the State;

"(5) identification of sites in the State with wetlands restoration potential;

"(6) identification of riparian areas in the State with restoration potential;

"(7) a schedule for implementing the elements of the plan;

"(8) a mechanism for monitoring achievement of the stated goals of the plan;

"(9) measures to assist in the development of wetlands and watershed management plans under section 322; and

"(10) involvement of local public and private agencies and organizations which have expertise in wetlands conservation or land use planning or development.

"SEC. 322. WETLANDS AND WATERSHED MANAGEMENT PLANS.

"(a) DESIGNATION AND APPROVAL OF MANAGEMENT UNITS AND ENTITIES.—

"(1) IN GENERAL.—The Governor of a State may at any time designate wetlands and associated land areas within the State as a wetlands and watershed management unit.

"(2) UNIT BOUNDARIES.—The boundaries of each wetlands and watershed management unit shall be identified on a map and shall be based on the best available scientific information and, to the extent practicable, consistent with the hydrological units identified by the United States Geological Survey of the Department of the Interior as the most appropriate units for planning purposes.

"(3) MANAGEMENT ENTITY.—The Governor of a State shall determine the entity responsible for developing and implementing a plan for each wetlands and watershed management unit designated under this section. The management entity may be an agency of State government, a local government agency, a substate regional planning organization, a conservation district or other natural resource management district, or any other public or nonprofit entity which has adequate powers to carry out the responsibilities authorized by this section.

"(4) APPROVAL.—Each designation of a wetlands and watershed management unit and a corresponding management entity under this subsection shall be submitted to the Administrator and the Secretary of the Army, acting through the Chief of Engineers (hereinafter in this section referred to as "Secretary"), for approval. The Administrator and the Secretary shall approve the designation of a management unit and entity not later than 180 days after the date of submittal, if the designation meets the requirements of this section. If the Administrator and the Secretary disapprove the designation, they shall notify the State in writing of the reasons for disapproval. The State may resubmit the designation amended to meet the objections of the Administrator and the Secretary.

"(b) DEVELOPMENT AND APPROVAL OF A WETLANDS AND WATERSHED MANAGEMENT PLAN.—

"(1) PLAN DEVELOPMENT.—An approved management entity shall be eligible to receive funding pursuant to section 106(h), 205(j), 319(e), or 604(b) (or any combination thereof) for the following activities in the development of a wetlands and watershed management plan:

"(A) inventory and mapping of—

"(i) all navigable waters within the proposed wetlands and watershed management unit;

"(ii) potential wetlands restoration sites;

"(B) assessment of the functions and relative value of wetlands within the wetlands and watershed management unit;

"(C) categorization of activities according to the degree to which they have an adverse effect on navigable waters within the wetlands and watershed management unit;

"(D) identification and adoption of programs, policies and measures to achieve within the wetlands and watershed management unit the goal under section 101(a)(8);

"(E) identification of potential mitigation banks;

"(F) identification and adoption of measures to integrate wetlands planning and management with broader water resource and land use planning and management, including floodplain management, water supply, stormwater management, and control of point and nonpoint source pollution;

"(G) identification and adoption of measures to increase consistency in Federal, State, and local wetlands definitions, delineation methodologies, and permitting approaches; and

"(H) identification and establishment of management strategies for restoring wetlands on a watershed basis.

"(2) PUBLIC PARTICIPATION.—Each State shall establish procedures, including the establishment of scientific and citizens' advisory committees, to encourage the public to participate in developing wetlands and watershed management plans under this section.

"(3) APPROVAL OF PLANS.

"(A) SUBMISSION OF PLAN.—The Governor of a State many submit to the Administrator for approval a wetlands and watershed management plan developed pursuant to this section.

"(B) DECISION ON PLAN.—The Administrator and the Secretary shall, in consultation with the Secretaries of the Interior, Agriculture, and Commerce, and after notice and opportunity for public comment, approve or disapprove a wetlands and watershed management plan within 180 days of the date the plan is submitted by a Governor pursuant to this paragraph.

"(C) PLAN REQUIREMENTS.—The Administrator and the Secretary shall approve a wetlands and watershed management plan submitted pursuant to this paragraph if they determine that the plan satisfies each of the following conditions:

"(i) the plan has been developed for a wetlands and watershed management unit designated and approved pursuant to subsection (a);

"(ii) the management entity with responsibility to carry out the plan has been designated and approved pursuant to subsection (a) and has the legal authority and financial resources to carry out the plan;

"(iii) the plan contains an inventory and mapping of—

"(I) all navigable waters within the proposed wetlands and watershed management unit;

"(II) potential wetlands restoration sites with a description of their intended functions upon completion and the time required to completion;

"(iv) the management entity has adopted programs, policies and measures that will ensure achievement within the watershed of the goal under section 101(a)(8); and

"(v) the plan provides that the management entity will report to the Administrator, the Secretary and the public every two years on implementation of the plan and on the losses and gains in functions and acres of wetlands within the wetlands and watershed management unit.

"(c) PLAN IMPLEMENTATION AND REVISION.—

"(1) PLANNING AND IMPLEMENTATION SCHEDULE.—Each wetlands and watershed management plan submitted and approved under subsection (b) shall include a planning and implementation schedule for a period of at least 10 years.

"(2) DURATION OF APPROVAL—The approval of a plan by the Administrator and the Secretary shall apply for a period not to exceed 10 years.

"(3) PLAN REVISIONS.—A revised and updated plan may be submittedfor approval prior to the expiration of the period specified in paragraph (2) pursuant to the same conditions and requirements that apply to any initial plan for a wetlands and watershed management unit that is approved pursuant to subsection (b).

"(d) INCENTIVES FOR WETLANDS AND WATERSHED MANAGEMENT PLANNING.—

"(1) FUNDING OF PROJECTS AND ACTIVITIES.—Projects and activities identified in an approved plan as necessary for achievement within the wetlands and watershed management unit of the goal under section 101(a)(8), and not otherwise required by this or other Federal law, shall—

"(A) be eligible for funding under section 603(c)(1)(F);

"(B) be included in any needs assessment conducted pursuant to section 516; and

"(C) be eligible for funding under section 604(a)(2)(C).

"(2) EXPEDITED PERMIT REVIEW.—Notwithstanding section 404(a), a decision under that section with respect to a completed application for a permit for discharge of dredged or fill material into navigable waters within a designated wetlands and watershed unit and subject to an approved wetlands and watershed management plan shall be made not later than the 60th day after the date the notice of such application is published under section 404(a)(1), unless—

"(A) with respect to issuance of the permit, the Secretary is required under the National Environmental Policy Act of 1969 to issue an environmental impact statement;

"(B) the permit application involves an activity that may affect any species that is listed or any critical habitat that is designated under the Endangered Species Act of 1973;

"(C) the Administrator, the Secretaries of the Departments of Agriculture, the Interior, Commerce, or Transportation, the head of another appropriate Federal agency, or the Governor of the State in which the activity occurs requests that the decision be made after such day, in which case the decision shall be made not later than the 90th day after the date the notice of application is published under section 404(a)(1);

"(D) the Secretary and the permit applicant determine that additional time is needed to evaluate such application; or

"(E) the decision is precluded as a matter of law or procedures required by law.

"(3) MITIGATION BANKS.—

"(A) At the request of an approved management entity, the Secretary and the Administrator shall provide assistance in establishment of mitigation banks under this section and section 404(u) by the approved management entity to achieve the goal under section 101(a)(8) within an approved wetlands and watershed management unit and in accordance with an approved wetlands and watershed management plan.

"(B) Establishment and oversight of mitigation banks within an approved wetlands and watershed management unit and in accordance with an approved wetlands and watershed management plan shall be eligible for funding under paragraph (1).

"(4) PROGRAMMATIC GENERAL PERMITS.—After December 31, 1996, a general permit may be issued or remain in effect under section 404(e)(3) for a local or regional regulatory program if the program is part of a wetlands and watershed management plan approved under section 322.

"(f) RESEARCH PROGRAM.—The Administrator, in cooperation with the Secretary, the Secretary of the Interior and other appropriate Federal, State and local government entities, shall initiate a research program of wetlands and watershed management. The research program shall include—

"(1) study of the functions, values and management needs of altered, artificial, and managed wetlands systems;

"(2) study and development of techniques and methods for determining and analyzing the functions and values of different types of wetlands;

"(3) study and development of techniques for managing and restoring wetlands within a watershed context;

"(4) study and development of techniques for better coordinating and integrating wetlands protection, floodplain management, stormwatermanagement, point and nonpoint source pollution controls, and water supply planning on a watershed basis;

"(5) development of criteria for identifying wetlands restoration sites on a watershed basis; and

"(6) recommendation of procedures and ecological criteria for wetlands restoration.

"SEC. 323. INTERGOVERNMENTAL WETLANDS COORDINATING COMMITTEE.

"(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the Wetlands Conservation and Regulatory Improvements Act of 1993, the Administrator shall establish a committee to coordinate federal, State, and local government wetlands policies (hereinafter in this section referred to as the "Coordinating Committee").

"(b) FUNCTIONS.—The Coordinating Committee shall—

"(1) assist in coordinating Federal, State, and local wetlands policies;

"(2) make comments available to the Secretary of the Army, acting through the Chief of Engineers, or the Administrator regarding existing and proposed regulatory, policy, program, or technical guidance affecting wetlands systems;

"(3) in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and the Administrator, assist in the review and field-testing of technical and scientific methods utilized in wetlands regulatory and non-regulatory programs;

"(4) encourage the development and implementation of State wetlands conservation plans pursuant to section 321;

"(5) encourage the development and implementation of wetlands and watershed management plans pursuant to section 322; and

"(6) assist in the development of a national strategy for the restoration of wetlands ecosystems pursuant to section 324.

"(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

"(1) the Administrator;

"(2) the Secretary of the Army, acting through the Chief of Engineers;

"(3) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service;

"(4) the Secretary of Agriculture, acting through the Chief of the Soil Conservation Service;

"(5) the Under Secretary of Commerce for Oceans and Atmosphere;

"(6) one individual appointed by the Administrator who shall represent the National Governor's Association;

"(7) one individual appointed by the Administrator who shall represent the National Association of Counties;

"(8) one individual appointed by the Administrator who shall represent the National League of Cities; and

"(9) ten State wetlands experts selected and appointed by the Administrator from among nominations submitted by the Governors of each State.

"(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

"(e) VACANCIES.—A vacancy in the Coordinating Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

"(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with Sections 5702 and 5703 of Title 5, United States Code.

"(g) CO-CHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), or (8) of subsection (c) who shall be selected by such members shall serve as co-chairpersons of the Coordinating Committee.

"SEC. 324. NATIONAL COOPERATIVE WETLANDS RESTORATION STRATEGY.

"(a) DEVELOPMENT.—Not later than one year after the date of the enactment of the Wetlands Conservation and Regulatory Improvements Act of 1993, the Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Coordinating Committee established under section 323, and with opportunity for public comment and participation, shall develop a National Cooperative Wetlands Restoration Strategy (hereinafter referred to as the "Restoration Strategy").

"(b) GOALS.—The goal of the Restoration Strategy shall be to restore damaged and degraded wetlands and riparian ecosystems consistent with the goals of this Act and with the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

"(c) FUNCTIONS.—The Restoration Strategy shall—

"(1) be designed to help coordinate and promote restoration efforts by Federal, State,

regional, and local governments and the private sector;

"(2) inventory and evaluate existing restoration efforts and make suggestions for the establishment of additional efforts and funding mechanisms for such efforts consistent with existing Federal, State and local programs and plans;

"(3) evaluate the role played by, and success of, wetlands restoration efforts in both regulatory and non-regulatory contexts;

"(4) evaluate current efforts to monitor restoration efforts;

"(5) periodically report on the status of wetlands restoration efforts; and

"(6) identify regulatory and non-regulatory obstacles to wetlands ecosystem restoration and recommend methods to remove such obstacles.".●

● Mr. CHAFEE. Mr. President, today Senator BAUCUS and I are introducing a bill to improve the existing Federal Wetlands Regulatory Program, section 404 of the Clean Water Act. Our bill, the Wetlands Conservation and Regulatory Improvements Act, will enhance the effectiveness, fairness, and flexibility of Federal wetlands protection—without jeopardizing our remaining wetlands resources. The bill makes it easier for farmers to comply with Federal wetlands regulations and provides for a stronger partnership for wetlands conservation between Federal agencies and the States.

The Clean Water Act's Wetlands Protection Program has two major problems. First, it is one of the most controversial environmental programs in existence and it is under serious attack in Congress. Second, it is not as effective as it needs to be in protecting wetlands. This bill is an attempt to solve both of these problems—to address legitimate complaints and to improve the effectiveness of the program.

Several months ago, during the debate on Senator BOND's wetlands amendment to the EPA cabinet bill, Senator BAUCUS and I pledged to carefully examine the Federal Wetlands Regulatory Program and work to address the concerns that have been expressed by a number of Senators regarding section 404. I believe the introduction of this bill goes a long way toward fulfilling our charge.

The bill is the result of consultations with groups and individuals representing numerous interests affected by wetlands protection—including developers, farmers, State agencies, and environmentalists. Our staffs have met with the staffs of just about every Senator who has expressed dissatisfaction with the current program. We also worked closely with the administration—which has recently established an Interagency Working Group on Federal Wetlands Policy at the request of Senator BREAUX and other Senators to examine wetlands issues. We found that many concerns could be addressed without weakening our commitment to maintain and restore wetlands.

Frankly, Mr. President, this bill does not go as far as I would like in strengthening the 404 wetlands program. I continue to believe we are losing too many wetlands—an astounding 200,000 acres per year—and it would be wise to significantly strengthen wetlands protection efforts. I recognize, however, that neither wetlands nor the public derive any benefit from the controversy that has plagued our wetlands protection efforts in recent years. By introducing more flexibility and responsiveness into the wetlands regulation program and by emphasizing wetlands and watershed planning, the enactment of this legislation would increase both the level of acceptance and the effectiveness of the section 404 regulatory program.

Before discussing the specific provisions of the bill, I would like to review the functions and values of wetlands to explain why it is important to protect them in the first place. Unfortunately, the people of the Midwest suffering from the devastating effects of the summer floods may have learned too late about one important function that wetlands perform—flood storage. When left in their natural state, wetlands along rivers and streams act as buffers that can catch and hold flood waters. Once the wetlands are destroyed, however, there is nothing to hold the floods back and the water pours out into croplands and developed areas such as our towns and cities.

It is important to note that three of the States that have been the most severely affected by the floods had already seen significant losses of their historical wetlands areas: Illinois had lost 85 percent of their wetlands prior to the flood; Missouri 87 percent; and Iowa 90 percent. Experts believe the loss of wetlands and their flood storage capacity has exacerbated flood damage in the area.

Wetlands are also one of the most biologically productive ecosystems on Earth. They are home to migratory waterfowl and many other species of birds. Approximately two-thirds of the major U.S. commercial fishes depend upon wetlands for nursery or spawning grounds. Over one-third of our endangered and threatened species depend upon wetlands at some stage in their life cycle.

Wetlands improve water quality and help reduce non-point source pollution by collecting and filtering sediments and pollutants—before they reach streams, rivers, and estuaries. Wetlands also act as recharge sites for groundwater systems. In short, wetlands are an essential part of the hydrologic cycle, and thus, critical to achieving the goal of the Clean Water Act: to restore and maintain the chemical, physical, and biological integrity of our Nation's waters.

Despite the valuable functions wetlands perform, attempts to protect wetlands have been controversial—primarily because most wetlands are found on private lands. In addition, while section 404 of the Clean Water Act regulates wetlands generally, the swampbuster provision of the Food Security Act prohibits farmers who convert wetlands from receiving agricultural subsidy payments. The existence of two different laws affecting agricultural wetlands has led to confusion and misunderstandings about what farmers need to do to comply with Federal law.

Our bill will greatly simplify the process for farmers. First, it exempts prior converted croplands—which are exempt under swampbuster—from section 404. This is consistent with current U.S. Army Corps regulatory policy—a policy that has been in effect since September 26, 1990; our bill would simply recognize that policy as part of the law. Second, it exempts wetlands established by human actions in uplands, such as stock ponds and wet areas created by irrigation. Third, it provides for issuance of regulations that generally authorize, through a general permit, under section 404 any activity found by the Soil Conservation Service [SCS] to be exempt under the mitigation and minimal effect provisions of the Food Security Act. Finally, it requires EPA, the Corps, and SCS to develop consistent policies regarding wetlands determinations on agricultural lands under the Food Security Act and the Clean Water Act. These provisions will reduce confusion and lead to better, more consistent wetlands determinations.

The bill also contains a number of provisions to improve administration of the 404 regulatory program—to help landowners receive quick, consistent decisions and to improve our efforts to protect the wetlands. It requires, in most cases, that permits be issued in less than 90 days—or 60 days for wetlands that are located within an area covered by an approved wetlands and watershed management plan. It establishes an administrative appeals process, and provides wetlands delineation assistance for small landowners seeking a section 404 permit. These provisions will reduce unnecessary delay in the permitting process and provide assistance to small landowners attempting to comply with section 404.

The bill also authorizes, with appropriate safeguards, the use of mitigation banks. I realize that mitigation banking has been opposed by many environmentalists as weakening wetlands protection. Nevertheless, the fact is that these banks are allowed—and many exist—under current law even though there is no legislative language specifically authorizing them. Under current law, mitigation banking is an ongoing practice and there are no apparent limits governing their use. Our bill would authorize them and place appropriate restrictions on their use to improve the operation of the mitigation banks while protecting wetlands values.

The participation and cooperation of States is vital if we are to achieve our goal of protecting and restoring the Nation's wetlands. The bill increases opportunities for State involvement in the section 404 program without requiring a State to assume the entire program. It authorizes, under appropriate conditions, State program general permits. Local areas with an approved wetlands plan would also be eligible for local program general permits.

State and local program general permits already exist under current law—but are ill-defined and are not governed by any legislative requirements or safeguards. These new provisions will change that. They increase State flexibility and accelerate decisions, without sacrificing valuable wetlands.

The bill also authorizes and provides funding for State and local wetlands and watershed planning. Adoption of a plan under this provision would not allow States or localities to weaken protections for wetlands. What wetlands plans can do is reduce the uncertainty and cost of protecting wetlands by allowing States to plan ahead and evaluate wetlands in the context of the overall watershed. In this way, States and local governments can work with Federal agencies to protect their vital resources and still allow for economically and environmentally sustainable development.

One especially controversial issue regarding wetlands—the definition and the delineation of wetlands—has substantially subsided since both the Corps and the EPA formally adopted the 1987 Corps delineation manual. Our bill adopts the current section 404 regulatory definition of wetlands and mandates continued use of the 1987 wetlands manual until a new manual is adopted. Any new manual is required to be developed after public notice and comment, and after considering the recommendations of the National Academy of Science [NAS]. The NAS is expected to complete their study regarding the definition and delineation of wetlands some time next year. There is little to be gained by changing the current definition or delineation method until the results of the NAS study are known. Any change would only cause confusion and uncertainty for landowners and the States.

Finally, the bill seeks to improve—to strengthen—Federal efforts to enhance and restore wetlands. It makes the protection and restoration of wetlands one of the explicit goals of the Clean Water Act. The bill expands the list of activities harmful to wetlands which are subject to regulation under section 404. For the first time draining and excavation will be covered by 404. It also calls on Federal agencies and the States to establish a National Wetlands Restoration Strategy.

We need to continue our efforts to protect and restore wetlands if we hope to meet the goals of the Clean Water Act. The Wetlands Conservation and Regulatory Improvements Act is an attempt to address the complaints we have heard about the section 404 regulatory program, without jeopardizing our remaining wetlands resource base, and I urge my colleagues to support it.●

By Mr. BIDEN (for himself, Mr. BINGAMAN, Mr. THURMOND, Mr. ROTH, Mr. DOMENICI, Mr. LIEBERMAN, Mr. LEVIN, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CONRAD, Mr. ROBB, Mr. INOUYE, Mr. METZENBAUM, and Mr. SASSER):

S.J. Res. 117. A joint resolution to designate August 1, 1993, as "National Incest and Sexual Abuse Healing Day"; to the Committee on the Judiciary.

NATIONAL INCEST AND SEXUAL ABUSE HEALING DAY

● Mr. BIDEN. Mr. President, I introduce a joint resolution designating August 1, 1993 as "National Incest and Sexual Abuse Healing Day."

Statistics paint a grim picture of America's growing child sexual abuse epidemic. According to figures released by the National Center for Child Abuse Prevention Research, 2.9 million child abuse cases were reported to child protective services [CPS] agencies in 1992, representing a 50-percent increase from reported cases between 1985 and 1992. Of these reported cases, 19 percent—over 400,000—were sexual abuse cases.

National figures on incest are not as readily available. However, statistics from my own State of Delaware show that of the 594 rape cases handled by the New Castle County Rape Response Unit, 73 percent of the victims were children, and approximately 45 percent of the cases involved incest. In addition, as far back as 1977, a study surveying 930 San Francisco women found that 38 percent had been sexually abused before the age of 18. Of those women, 89 percent had been abused by a relative or family acquaintance. Finally, even with the high numbers of incest cases, studies have shown that fewer than 10 percent of incest cases ever get to court.

Even more disheartening are the actual stories of child abuse and sexual abuse of children, which seem to be in the news in greater frequency these days. On any day, the wire services are filled with a number of gruesome child abuse stories. I will choose a few examples from a single day earlier this week—there are many more—to share with my colleagues.

In Beckley, WV, a 24-year-old woman recently pleaded guilty to helping her husband sexually assault a 10-year-old girl over a 3-year period. The woman would knowingly pick up and drive the girl to her home to be assaulted by her husband, who also pleaded guilty to a number of sexual abuse charges.

In Passaic, NJ, an 11-year-old girl and her 12-year-old girlfriend have been charged with taking the clothes off a 7-year-old boy and a 9-year-old girl and forcing them to have oral and vaginal sex. When questioned by police, the girls said they had seen their relatives perform sex, and had seen it on cable television.

Finally, in Ebensburg, PA, an 18-year-old man and his 16-year-old girlfriend, who had been babysitting a 6-year-old girl and 4-year-old boy, have been arrested and charged with sexually abusing the children by forcing them to perform various sex acts, photographing themselves while engaged in various sex acts with the children, and having the children take pictures of them while they performed various sex acts.

Mr. President, I apologize to my Senate colleagues for the graphic depictions I have described here; but I could have never imagined anything more horrific than these true-life stories.

I realize many of us hear stories such as these and, out of revulsion, tend to want to block them out, or change the subject, because they are somebody else's children, and somebody else's problem. However I am here today to say that they are our children and our problem, because they are also our future. No one, no class, and no area is immune to these crimes. The stories I mentioned before indicate that these crimes occur in small towns as well as cities, and cross all social and economic boundaries. We must—and, as the chairman of the Senate Judiciary Committee, I say we will—seek out solutions to curb these crimes.

In addition, we must also seek out solutions to help the survivors of these crimes. With every case of sexual abuse of children—except in the cases where the abuse is deadly—a living victim is born. The fortunate ones may be able to overcome their trauma by speaking out, creating an open and honest dialog on the topic. Others, unable to come to terms with what has occurred, may face years of physical and emotional problems. Many will grow up to be the next generation of abusers.

A number of survivors and advocates of child abuse victims have said that speaking out about past abuses not only helps them begin to recover, it also helps combat these crimes by bringing about more public awareness and understanding. On August 1, a number of organizations—including Action for Children Today [ACT] in my State of Delaware—will provide such a forum by holding the first-ever nationwide speakout by survivors of incest and child sexual abuse.

That is whey, with a number of my Senate colleagues, I have introduced this resolution: to applaud the efforts of these groups to bring attention to such heinous crimes, and to show support for the brave survivors who are

willing to speak out and stand up for the silent many who are still troubled by past abuses. I invite all of my colleagues to join us in this effort, and I ask unanimous consent that the complete text be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered printed in the RECORD, as follows:

S.J. RES. 117

Whereas child abuse occurs in alarming proportions, with 2.9 million reported cases in 1992, increasing by 50% between 1985 and 1992; and

Whereas sexual abuse of children, including abuse by family members, is a crime crossing all social or economic boundaries in the United States; and

Whereas child abuse is frequently perpetuated, as one generation of victims becomes the next generation of abusers, creating a vicious cycle of violence; and

Whereas opportunities to speak out publicly and truthfully about child sexual abuse are deemed of value by numerous survivors and victims' advocates, as a means to promote public awareness and understanding and to foster a sense of support for and among victims; and

Whereas open and honest dialogue is a prerequisite for progress in combatting child abuse; and

Whereas August 1, 1993, will be the first nationwide "speakout" by survivors of incest and child sexual abuse: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That August 1, 1993, be designated as "National Incest and Sexual Abuse Healing Day," to be observed by the people of the United States with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 221

At the request of Mr. METZENBAUM, the names of the Senator from Wisconsin [Mr. FEINGOLD] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 221, a bill to allow a prisoner under sentence of death to obtain judicial review of newly discovered evidence showing that he is probably innocent.

S. 299

At the request of Mr. RIEGLE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 299, a bill to amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes.

S. 364

At the request of Mrs. FEINSTEIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 364, a bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

S. 515

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 515, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 784

At the request of Mr. HATCH, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 985

At the request of Mr. INOUYE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 985, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, and for other purposes.

S. 1015

At the request of Mr. DORGAN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1015, a bill to establish a 2-year moratorium on construction and leasing of space by the Federal Government, and for other purposes.

S. 1040

At the request of Mr. BINGAMAN, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1040, a bill to support systemic improvement of education and the development of a technologically literate citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the National Education Goals and any national education standards that may be developed, are provided to schools throughout the United States.

S. 1111

At the request of Mr. KERREY, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Colorado [Mr. BROWN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. DASCHLE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1111, a bill to authorize the minting of coins to commemorate the Vietnam Veterans' Memorial in Washington, D.C.

S. 1118

At the request of Mr. HATFIELD, the names of the Senator from Missouri [Mr. BOND] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1123

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1123, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1256

At the request of Mr. DOLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1256, a bill to amend the Foreign Assistance Act of 1961 to examine the status of the human rights of people with disabilities worldwide.

S. 1274

At the request of Mr. BUMPERS, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Connecticut [Mr. DODD], the Senator from Maine [Mr. MITCHELL], the Senator from Massachusetts [Mr. KERRY], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1274, a bill to authorize funding for certain Small Business Administration programs, and for other purposes.

SENATE JOINT RESOLUTION 94

At the request of Mr. DOLE, the names of the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. CRAIG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 94, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "National Customer Service Week."

SENATE JOINT RESOLUTION 115

At the request of Mr. COCHRAN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Colorado [Mr. BROWN], the Senator from Washington [Mrs. MURRAY], the Senator from New Mexico [Mr. DOMENICI], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 115, a joint resolution designating November 22, 1993, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. DECONCINI, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution concerning the removal of Russian troops from the independent Baltic States of Estonia, Latvia, and Lithuania.

AMENDMENT NO. 698

At the request of Mr. D'AMATO the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Amendment No. 698 proposed to H.R. 2519, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

AMENDMENTS SUBMITTED

NATIONAL SERVICE TRUST ACT OF 1993 DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1993

GRAMM AMENDMENT NO. 700

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, as follows:

On page 43, line 4, strike the dash.

On page 43, line 5, strike "(1)".

On page 43, move the matter appearing on lines 5 through 8 so as to follow the matter appearing on line 4.

On page 43, line 8, strike ", and".

On page 43, strike line 9 and all that follows through "177" on line 10 and move the period so as to follow the matter on line 8.

On page 45, strike line 1 and all that follows through "(3)" on line 8, and insert "and "(2)".

On page 104, lines 10 and 11, strike "nonduplication and nondisplacement requirements of section 177 and the".

On page 109, strike lines 4 through 11.

On page 109, line 12, strike "(B)" and insert "(A)".

On page 109, line 17, strike "(C)" and insert "(B)".

On page 109, lines 18 through 20, strike "nonduplication and nondisplacement requirements of section 177 and the".

On page 123, lines 16 and 17, strike "nonduplication and nondisplacement requirements of section 177 and the".

Beginning on page 123, strike line 19 and all that follows through "(6)" on line 3 of page 124, and insert "and "(5)".

Beginning on page 133, line 21, strike the dash and all that follows through line 4 on page 134.

On page 134, line 5, strike "(ii)".

On page 134, lines 6 and 7, strike "nonduplication and nondisplacement requirements of section 177 and the".

Page 134, move the matter appearing on lines 5 through 9 so as to follow the matter appearing on line 21 of page 133.

On page 150, lines 20 through 22, strike "nonduplication and nondisplacement requirements of section 177 and the".

On page 174, line 15, add "and" after the semicolon.

On page 174, line 17, strike "; and" and insert a period.

Beginning on page 174, strike line 18 and all that follows through page 175, line 9.

Beginning on page 175, strike line 16 and all that follows through page 176, line 14 and redesignate the remaining sections in title I accordingly.

On page 306, strike lines 3 through 10 and redesignate the following section accordingly.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

GLENN AMENDMENT NO. 701

Mr. GLENN proposed an amendment to the bill (H.R. 2519) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes, as follows:

On page 28, add after line 22 the following new section:

SEC. 112. No funds appropriated under this Act or any other Act may be expended to implement or enforce Attorney General Order No. 1638-92, dated December 11, 1992 (relating to the jurisdiction of the Office of the Inspector General and certain allegations of misconduct).

BAUCUS AMENDMENT NO. 702

Mr. HOLLINGS (for Mr. BAUCUS) proposed an amendment to the bill (H.R. 2519), supra, as follows:

On page 76, insert between lines 19 and 20, the following new section:

SEC. 503. No funds appropriated or otherwise made available under this Act or any other Act may be expended for the salary of the United States Commissioner of the International Boundary Commission, United States and Canada.

HELMS (AND OTHERS) AMENDMENT NO. 703

Mr. HELMS (for himself, Mr. DOLE, Mr. COVERDELL, Mr. MCCAIN, Mr. MACK, Mr. D'AMATO, Mr. COCHRAN, Mr. PRESSLER, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. BROWN, Mr. LOTT, Mr. GREGG, Mr. MURKOWSKI, Mr. BURNS, Mr. WALLOP, Mr. MCCONNELL, and Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 2519), supra, as follows:

At the end of the pending amendment, insert the following:

RESTRICTION ON ASSISTANCE FOR NICARAGUA

(a) RESTRICTION.—Funds appropriated or otherwise made available under this or any other Act, including any funds which were obligated but not expended under any prior Act—

(1) may not be obligated or expended for the Government of Nicaragua; and

(2) may not be obligated or expended to any other country or international financial institution for reduction of any Nicaraguan indebtedness to that country or institution, until the President certifies to Congress that—

(A) the Government of Nicaragua has identified, apprehended, and brought to justice all individuals responsible for the provision of Nicaraguan passports discovered in connection with the February 26, 1993, bombing of the World Trade Center in New York;

(B) an independent international investigation, with the participation of appropriate United States law enforcement personnel, into the origins, leadership, funding, and activities of the international criminal network revealed by the explosion in Managua, Nicaragua, on May 23, 1993, has occurred and that the Government of Nicaragua has fully and completely implemented all recommendations of the investigation; and

(C) none of the senior officials of the Government of Nicaragua, including officials of the Sandinista Popular Army, the Sandinista National Police, and all intelligence services, is involved in, or provides support for, any act of international terrorism.

(b) REPORT.—Not later than 30 days after the date of enactment of this section, the Secretary of State shall, in consultation with the Federal Bureau of Investigation, the Immigration and Naturalization Service and any other appropriate Federal agency, submit a report to Congress on the extent of involvement by the Government of Nicaragua in international terrorist and criminal activities since April 25, 1990. Such report shall—

(1) include information on terrorist groups with an office or presence in Nicaragua and on arms storage in and arms smuggling and trafficking from Nicaragua;

(2) include information on the use of Nicaraguan passports in international terrorist activities, including the February 26, 1993, bombing of the World Trade Center;

(3) state whether the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) concerning Nicaragua's support for international terrorism and, if the Secretary has not made such a determination, shall contain a detailed explanation of the reasons for not doing so;

(4) state whether the Secretary of State has made a determination under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) concerning Nicaragua's support for international terrorism and, if the Secretary has not made such a determination, shall contain a detailed explanation of the reasons for not doing so;

(5) state whether the President has made a determination under section 554 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391) concerning Nicaragua's support for international terrorism and, if the President, has not made such a determination, shall contain a detailed explanation of the reasons for not doing so; and

(6) include information on individuals or groups in the United States who aid or abet guerrilla or terrorist operations in violation of United States law in Nicaragua.

(c) EXEMPTION.—The restriction in subsection (a) shall not apply with respect to funds made available under chapter 9 of part I of the Foreign Assistance Act (relating to disaster assistance) if such funds are notified in advance in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2393a).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Government of Nicaragua" means the government, any political subdivision thereof, and any agency or instrumentality thereof, including the armed forces and the security forces, and the judiciary, of Nicaragua;

(2) the term "international financial institution " includes the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Central American Bank of Economic Integration, and the International Monetary Fund; and

(3) the term "senior official" refers to—

(A) a vice-minister or minister of a government ministry;

(B) a director or deputy director of a government institute or parastatal;

(C) an individual with the rank of lieutenant colonel, or with an equivalent rank or above, in the armed forces or intelligence services; or

(D) an individual with the rank of sub-commander or above in the national police.

DECONCINI (AND OTHERS) AMENDMENT NO. 704

Mr. DECONCINI (for himself, Mr. D'AMATO, Ms. MIKULSKI, Mr. GLENN, Mr. MCCAIN, Mr. DASCHLE, Mr. WOFFORD, Mr. SARBANES, Mr. RIEGLE, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. BYRD, Mr. DODD, Mr. PRESSLER, and Mr. HELMS) proposed an amendment to the bill (H.R. 2519), supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . POLICY ON THE REMOVAL OF RUSSIAN ARMED FORCES FROM THE BALTIC STATES.

(a) FINDINGS.—The Congress finds that—

(1) the armed forces of the former Soviet Union, currently under control of the Russian Federation, continue to be deployed on the territory of the sovereign and independent Baltic States of Estonia, Latvia, and Lithuania against the wishes of the Baltic peoples and their governments;

(2) the stationing of military forces on the territory of another sovereign state against the will of that state is contrary to international law;

(3) the presence of Russian military forces in the Baltic States may present a destabilizing effect on the governments of these states;

(4) the governments of Estonia, Latvia, and Lithuania have demanded that the Russian Federation remove such forces from their territories;

(5) Article 15 of the July 1992 Helsinki Summit Declaration of the Conference on Security and Cooperation in Europe specifically calls for the conclusion, without delay, of appropriate bilateral agreements, including timetables, for the "early, orderly and complete withdrawal of such foreign troops from the territories of the Baltic States";

(6) the United States is aware of the difficulties facing the Russian Federation in resettling Russian soldiers and their families in Russia, and that the lack of housing is a factor in the expeditious removal of Russian troops;

(7) the United States is committed to providing assistance to the Russian Federation for construction of housing and job retraining for returning troops in an attempt to help alleviate this burden; and

(8) the United States is encouraged by the progress achieved thus far in removal of such troops, and welcomes the agreement reached between the Russian Federation and Lithuania establishing the August 1993 deadline for troop removal.

(b) POLICY.—The Congress calls upon the Government of the Russian Federation to continue to remove its troops from the independent Baltic States of Estonia, Latvia, and Lithuania through a firm, expeditious, and conscientiously observed schedule.

REID (AND BRYAN) AMENDMENT NO. 705

Mr. REID (for himself and Mr. BRYAN) proposed an amendment to the bill (H.R. 2519), supra, as follows:

On page 87, between lines 20 and 21, insert the following new section:

SEC. 609. (a) Section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) is amended—

(1) in paragraph (1), by striking "and (4)" and inserting "(4), and (5)"; and

(2) by adding at the end thereof the following new paragraph:

"(5) The term 'employee' does not include any inmate of a penal or correctional institution of the Federal Government, District of Columbia, or a State or political subdivision of a State.".

(b) Section 13(a) of such Act (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (15) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(16) any inmate of a penal or correctional institution of the Federal Government, the District of Columbia, or a State or political subdivision of a State.".

(c) the amendments made by this section shall apply as if enacted on the date of enactment of the Fair Labor Standards Act of 1938.

PRYOR (AND OTHERS) AMENDMENT NO. 706

Mr. PRYOR (for himself, Mr. HOLLINGS, Mrs. BOXER, Mr. WOFFORD, Mr. BINGAMAN, Mr. PELL, Mr. DOMENICI, Mr. COHEN, and Mr. RIEGLE) proposed an amendment to the bill (H.R. 2519), supra; as follows:

On page 49, line 22, after the word "expended" insert the following: "*Provided*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when, in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: "*Provided further*, That, The Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment."

NATIONAL SERVICE TRUST ACT OF 1993 DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1993

GRAMM AMENDMENT NO. 707

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill (S. 919), supra, as follows:

At the appropriate place, insert the following:

"( ) EXPANDED WORK OPPORTUNITIES FOR NATIONAL SERVICE PARTICIPANTS.—Notwithstanding any other provision of this Act, nothing in this Act shall have the effect of—

( ) restricting the placement of a National Service participant under Subtitle C of title I; or

( ) limiting the scope of services, duties, or activities in which such a National Service participant may engage;

in order to comply with any nondisplacement provisions of this Act.

COMMERCE, JUSTICE, STATE, AND THE JUDICIARY APPROPRIATIONS FOR FISCAL YEAR 1994

PRESSLER AMENDMENT NO. 708

Mr. PRESSLER proposed an amendment to the bill (H.R. 2519), supra, as follows:

On page 72, line 12, strike the colon and insert in lieu thereof the following: "or that the United Nations has established a mechanism, process, or office—

"(1) to conduct and supervise audits and investigations of United Nations operations;

"(2) to provide leadership and coordination, and to recommend policies, for activities designed—

"(A) to promote economy, efficiency, and effectiveness in the administration of, and

"(B) to prevent and detect fraud and abuse in, such operations, and

"(3) to provide a means for keeping the Secretary-General fully and currently informed about problems and deficiencies relating to the administration of such operations and the necessity for and progress of corrective action: *Provided further*, That the Secretary of State, acting through the United States Permanent Representative to the United Nations, may propose that the Secretary-General of the United Nations establish an advisory committee to assist in the creation within the United Nations of such mechanism, process, or office: *Provided further*, That an advisory committee established consistent with the preceding proviso should be comprised of the permanent representatives to the United Nations from 15 countries having a commitment or interest in budgetary and management reform of the United Nations, including a wide range of contributing countries and developing countries representing the various regional groupings of countries in the United Nations: *Provided further*, That such advisory committee should evaluate and make recommendations regarding the efforts of the United Nations and its specialized agencies—

"(i) to establish a system of cost-based accounting;

"(ii) to continue the practice of conducting internal audits;

"(iii) to remedy any irregularities found by such audits; and

"(iv) to make arrangements for regular, independent audits of United Nations operations: *Provided further*, That it is the sense of the Congress that even tougher measures to achieve reform should be put in place in the event that the withholding of arrearages does not achieve necessary reform in the United Nations:"

NATIONAL SERVICE TRUST ACT OF 1993 DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1993

KENNEDY (AND OTHERS) AMENDMENT NO. 709

Mr. KENNEDY (for himself, Mr. DURENBERGER, and Mr. WOFFORD) proposed an amendment to the bill (S. 919), supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Trust Act of 1993".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
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SEC. 2. FINDINGS AND PURPOSE.

(a) IN GENERAL.—Section 2 of the National and Community Service Act of 1990 (42 U.S.C. 12501) is amended to read as follows:

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Throughout the United States, there are pressing unmet human, educational, environmental, and public safety needs.

"(2) Americans desire to affirm common responsibilities and shared values, and join together in positive experiences, that transcend race, religion, gender, age, disability, region, income, and education.

"(3) The rising costs of postsecondary education are putting higher education out of reach for an increasing number of citizens.

"(4) Americans of all ages can improve their communities and become better citizens through service to the United States.

"(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

"(6) Residents of low-income communities, especially youth and young adults, can be empowered through their service, and can help provide future community leadership.

"(b) PURPOSES.—It is the purpose of this Act to—

"(1) meet the unmet human, educational, environmental, and public safety needs of the United States, without displacing existing workers;

"(2) renew the ethic of civic responsibility and the spirit of community throughout the United States;

"(3) expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training;

"(4) encourage citizens of the United States, regardless of race, religion, gender, age, disability, region, income, or education, to engage in full-time or part-time national service;

"(5) reinvent government to eliminate duplication in national service programs, support locally established service initiatives, encourage private sector investment and involvement in national service programs, and require measurable goals for performance in such programs and offer flexibility in meeting those goals;

"(6) empower residents of low-income communities, especially youth and young adults, through their service, and help provide future community leadership;

"(7) build on the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens;

"(8) provide tangible benefits to the communities in which national service is performed;

"(9) build ties among Americans that transcend race, religion, gender, age, disability, region, income, and education;

"(10) encourage educational reform by introducing service-learning into curricula in elementary schools, secondary schools, and institutions of higher education; and

"(11) enable service participants to gain personal, academic, and occupational skills through service-learning experiences.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 2 and inserting the following new item:

"Sec. 2. Findings and purpose.".

TITLE I—PROGRAMS AND RELATED PROVISIONS

Subtitle A—Programs

SEC. 101. FEDERAL INVESTMENT IN SUPPORT OF NATIONAL SERVICE.

(a) ASSISTANCE PROGRAM AUTHORIZED.—Subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12541 et seq.) is amended to read as follows:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"SEC. 121. AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations, the Corporation may make grants to States, subdivisions of States, Indian tribes, public and private not-for-profit organizations (including labor organizations and community action agencies), and institutions of higher education for the purpose of assisting the recipients of the grants by paying for the Federal share of—

"(1) carrying out full- or part-time national service programs, including summer programs, described in section 122(a); and

"(2) making grants in support of other national service programs described in section 122(a) that are carried out by other entities.

"(b) AGREEMENTS WITH FEDERAL AGENCIES.—

"(1) IN GENERAL.—The Corporation may enter into a contract or cooperative agreement with another Federal agency to support a national service program carried out by the agency. The support provided by the Corporation pursuant to the contract or cooperative agreement may include the transfer to the Federal agency of funds available to the Corporation under this subtitle.

"(2) NONDUPLICATION.—A Federal agency that enters into a contract or cooperative agreement under paragraph (1) to support a national service program within a State—

"(A) shall consult with the State Commission serving the State to avoid duplication with any service program that is in existence in the State as of the date of the contract or cooperative agreement; and

"(B) shall, in an appropriate case, enter into a contract or cooperative agreement with an entity that is carrying out a service program described in subparagraph (A) that is of high quality, in order to support the national service program.

"(3) APPLICATION OF REQUIREMENTS.—A Federal agency receiving assistance under this subsection shall comply with the Federal share requirements of section 129(d)(2)(B). The supplementation requirements specified in section 173 shall apply with respect to the Federal national service programs supported with such assistance.

"(c) PROVISION OF APPROVED NATIONAL SERVICE POSITIONS.—As part of the provision of assistance under subsections (a) and (b), the Corporation shall—

"(1) approve the provision of national service educational awards described in subtitle D for the participants who serve in national service programs carried out using such assistance; and

"(2) deposit in the National Service Trust established in section 145(a) an amount equal to the product of—

"(A) the value of a national service educational award under section 147; and

"(B) the total number of approved national service positions to be provided.

"(d) FIVE PERCENT LIMITATION ON ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to the original recipient of a grant or transfer of assistance under subsection (a) or (b) for a fiscal year may be used to pay for administrative costs (including indirect costs) incurred by—

"(A) the recipient of the assistance; and

"(B) national service programs carried out or supported with the assistance.

"(2) RULES ON USE.—The Corporation may by rule prescribe the manner and extent to which—

"(A) assistance provided under subsection (a) or (b) may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient of the grant or transfer of assistance under such subsection; and

"(ii) national service programs carried out or supported with the assistance.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—Except as provided in sections 129(d)(2)(B) and 140, the Federal share of the cost of carrying out a national service program that receives the assistance under subsection (a), whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed 75 percent of such cost.

"(2) CALCULATION.—

"(A) IN GENERAL.—In providing for the remaining share of the cost of carrying out a national service program, the program—

"(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(ii) may provide for such share through State sources, local sources, or other Federal sources (other than the use of funds made available under the national service laws).

"(B) COST OF HEALTH CARE.—In providing for such remaining share through a payment in cash, a national service program may count not more than 85 percent of the cost of providing health care policy described in section 140(d)(2) toward such share.

"(3) WAIVER.—The Corporation may waive in whole or in part the requirements of paragraph (1) with respect to a national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 122. TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

"(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving assistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

"(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, capabilities, ages, ethnic backgrounds, or genders.

"(2) A full-time youth corps program, carried out during the summer or throughout the full calendar year, such as a conservation corps or youth service corps (including a conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands), that—

"(A) undertakes meaningful service projects with visible benefits to a community, including natural resource, urban renovation, rural development, or human services projects;

"(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths, other economically disadvantaged youths, and individuals with disabilities, who are between those ages; and

"(C) provides those participants who are youths and young adults with—

"(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

"(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

"(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I subtitle B.

"(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

"(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

"(B) brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

"(5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.

"(6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

"(A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);

"(B) teams composed of such students; or

"(C) teams composed of a combination of such students and community residents.

"(7) A preprofessional training program in which students enrolled in an institution of higher education—

"(A) receive training in specified fields, which may include classes containing service-learning;

"(B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

"(C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.

"(8) A professional corps program that recruits and places qualified participants in positions—

"(A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;

"(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and

"(C) that are sponsored by public or private not-for-profit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.

"(9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—

"(A) the housing needs of low-income families and the homeless; and

"(B) the need for community facilities in low-income areas.

"(10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists such adults in designing solutions to community problems.

"(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component of a national service program described in any of paragraphs (1) through (10), or in paragraph (12) or (13).

"(12) A program, to be known as a 'Communities in Action program', carried out by not-for-profit organizations, including community action agencies or combinations of such agencies, to provide opportunities for individuals or teams of individuals to engage in local community projects that meet important unaddressed community and individual needs in low-income areas served by such a not-for-profit organization, including service projects to meet the unaddressed needs of economically disadvantaged youth age 18 and younger (including providing safe locations for after-school programs that provide opportunities for learning and recreation).

"(13) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

"(b) QUALIFICATION CRITERIA TO DETERMINE ELIGIBILITY.—

"(1) ESTABLISHMENT BY CORPORATION.—The Corporation shall establish qualification criteria for different types of national service programs for the purpose of determining whether a particular national service program should be considered to be a national service program eligible to receive assistance or approved national service positions under this subtitle.

"(2) CONSULTATION.—In establishing qualification criteria under paragraph (1), the Corporation shall consult with organizations and individuals that have extensive experience in developing and administering effective national service programs.

"(3) APPLICATION TO SUBGRANTS.—The qualification criteria established by the Corporation under paragraph (1) shall also be used by each recipient of assistance under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

"(4) ENCOURAGEMENT OF INTERGENERATIONAL COMPONENTS OF PROGRAMS.—The Corporation shall encourage national service programs eligible to receive assistance or approved national service positions under this subtitle to establish, if consistent with the purposes of the program, an intergenerational component of the program that combines students, out-of-school youths, and older adults as participants to provide services to address unmet human, education, environmental, or public safety needs.

"(c) NATIONAL SERVICE PRIORITIES.—

"(1) ESTABLISHMENT.—

"(A) BY CORPORATION.—In order to concentrate national efforts on meeting certain unmet human, educational, environmental, or public safety needs and to achieve the other purposes of this Act, the Corporation shall establish, and after reviewing the strategic plan approved under section 192A(g)(1), periodically alter priorities as appropriate regarding the types of national service programs to be assisted under subsection (b) or (d) of section 129 and the purposes for which such assistance may be used.

"(B) BY STATES.—States shall establish, and through the national service plan process described in section 178(e)(1), periodically alter priorities as appropriate regarding the national service programs to be assisted under section 129(a)(1).

"(2) NOTICE TO APPLICANTS.—

"(A) IN GENERAL.—The Corporation shall provide to potential applicants advance notice of any national service priorities to be in effect under this subsection for a fiscal year.

"(B) CONTENTS.—The notice shall specifically include—

"(i) a description of any alteration made in the priorities since the previous notice; and

"(ii) a description of the national service programs that are designated by the Corporation under section 133(d)(2) as eligible for priority consideration in the next competitive distribution of assistance under section 121(a).

"(C) REGULATIONS.—The Corporation shall by regulation establish procedures to ensure the equitable treatment of national service programs that—

"(i) receive funding under this subtitle for multiple years; and

"(ii) would be adversely affected by annual revisions in such national service priorities.

"(3) APPLICATION TO SUBGRANTS.—Any recipient of funds under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs shall, in conducting such a grant program, make reasonable efforts to use any national service priorities established by the Corporation under this subsection.

"(d) EXISTING PROGRAMS.—Notwithstanding any other provision of this section, any program that received financial assistance under subtitle C or D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subsection, shall be eligible to receive financial assistance under this subtitle for a period of 30 months from the date of enactment of this subsection.

"SEC. 123. TYPES OF NATIONAL SERVICE POSITIONS ELIGIBLE FOR APPROVAL FOR NATIONAL SERVICE EDUCATIONAL AWARDS.

"The Corporation may approve of any of the following service positions as an approved national service position that includes the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position:

"(1) A position for a participant in a national service program described in section 122(a) that receives assistance under subsection (a) or (b) of section 121.

"(2) A position for a participant in a program that—

"(A) is carried out by a State, a subdivision of a State, an Indian tribe, a public or private not-for-profit organization (including a community action agency), an institution of higher education, or a Federal agency; and

"(B) would be eligible to receive assistance under section 121(a), based on criteria established by the Corporation, but has not applied for such assistance.

"(3) A position involving service as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

"(4) A position facilitating service-learning in a program described in section 122(a)(3) that is eligible for assistance under part I of subtitle B.

"(5) A position for a participant in the Civilian Community Corps under subtitle E.

"(6) A position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position.

"(7) Such other national service positions as the Corporation considers to be appropriate.

"SEC. 124. TYPES OF PROGRAM ASSISTANCE.

"(a) PLANNING ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the planning of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 1 year.

"(b) OPERATIONAL ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the establishment, operation, or expansion of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(c) REPLICATION ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the expansion of a proven national service program to another geographical location. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(d) APPLICATION TO SUBGRANTS.—The requirements of this section shall apply to any State or other applicant receiving assistance under section 121 that proposes to conduct a grant program using the assistance to support other national service programs.

"SEC. 125. TRAINING AND TECHNICAL ASSISTANCE.

"(a) TRAINING PROGRAMS.—The Corporation may conduct, directly or by grant or contract, appropriate training programs regarding national service in order to—

"(1) improve the ability of national service programs assisted under section 121 to meet human, educational, environmental, or public safety needs in communities—

"(A) where services are needed most; and

"(B) where programs do not exist, or are too limited to meet community needs, as of

the date on which the Corporation makes the grant or enters into the contract;

"(2) promote leadership development in such programs;

"(3) improve the instructional and programmatic quality of such programs to build an ethic of civic responsibility;

"(4) develop the management and budgetary skills of program operators; and

"(5) provide for or improve the training provided to the participants in such programs.

"(b) TECHNICAL ASSISTANCE.—The Corporation shall, where necessary, make appropriate technical assistance available to States, Indian tribes, labor organizations, organizations operated by young adults, organizations serving economically disadvantaged individuals, and other entities described in section 121 that desire—

"(1) to develop national service programs; or

"(2) to apply for assistance under such section or under a grant program conducted using assistance provided under such section.

"SEC. 126. OTHER SPECIAL ASSISTANCE.

"(a) SUPPORT FOR STATE COMMISSIONS.—

"(1) ASSISTANCE AUTHORIZED.—The Corporation may make assistance available to assist a State to establish or operate the State Commission on National and Community Service required to be established by the State under section 178.

"(2) AMOUNT OF ASSISTANCE.—The amount of assistance that may be provided to a State Commission under this subsection, together with other Federal funds available to establish or operate the State Commission, may not exceed—

"(A) 85 percent of the total cost to establish or operate the State Commission for the first year for which the State Commission receives assistance under this subsection; and

"(B) such smaller percentage of such cost as the Corporation may establish for the second, third, and fourth years of such assistance in order to ensure that the Federal share does not exceed 50 percent of such costs for the fifth year, and any subsequent year, for which the State Commission receives assistance under this subsection.

"(b) DISASTER SERVICE.—The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973, to involve in disaster relief efforts youth corps programs described in section 122(a)(2) and other programs that receive assistance under the national service laws.

"(c) CHALLENGE GRANTS FOR NATIONAL SERVICE PROGRAMS.—

"(1) ASSISTANCE AUTHORIZED.—

"(A) IN GENERAL.—The Corporation may make challenge grants under this subsection to national service programs that receive assistance under section 121.

"(B) CRITERIA.—The Corporation shall develop criteria for the selection of recipients of such challenge grants, so as to make the grants widely available to a variety of programs that—

"(i) are high-quality national service programs; and

"(ii) are carried out by entities with demonstrated experience in establishing and implementing projects that provide benefits to participants and communities.

"(2) AMOUNT OF ASSISTANCE.—A challenge grant under this subsection may provide not more than $1 of assistance under this subsection for each $1 in cash raised by the national service program from private sources in excess of amounts required to be provided by the program to satisfy matching funds requirements under section 121(e). The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection.

"PART II—APPLICATION AND APPROVAL PROCESS

"SEC. 129. PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS BY COMPETITIVE AND OTHER MEANS.

"(a) ALLOTMENTS OF ASSISTANCE AND APPROVED POSITIONS TO STATES AND INDIAN TRIBES.—

"(1) ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States (through the State Commission of the State), the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133. The amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to the amount that bears the same ratio to 33⅓ percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) ALLOTMENT OF ASSISTANCE TO OTHER JURISDICTIONS AND INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve up to 1 percent of the allocated funds for grants under section 121(a) to Indian tribes, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted by the Corporation on a competitive basis in accordance with their respective needs. Palau shall also be eligible for a grant under this paragraph from the reserved funds until such time as the Compact of Free Association with Palau is ratified.

"(3) EFFECT OF FAILURE TO APPLY.—If a State or Indian tribe fails to apply for, or fails to give notice to the Corporation of its intent to apply for, an allotment under this subsection, the Corporation shall use the amount that would have been allotted under this subsection to the State or Indian tribe—

"(A) to make grants (and provide approved national service positions in connection with such grants) to other eligible entities under section 121 that propose to carry out national service programs in the State or on behalf of the Indian tribe; and

"(B) after making grants under paragraph (1), to make a reallotment to other States and Indian tribes with approved applications under section 130.

"(b) RESERVATION OF APPROVED POSITIONS.—

"(1) NUMBER RESERVED.—Except as provided in paragraph (2), the Corporation shall ensure that each individual selected during a fiscal year for assignment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or as a participant in the Civilian Community Corps Demonstration Program under subtitle E shall receive the national service educational award described in subtitle D if the individual satisfies the eligibility requirements for the award. Funds for approved national service positions required by this paragraph for a fiscal year shall be deducted from the total funding for approved national service positions for that fiscal year.

"(2) TRANSITION.—The Corporation shall determine an equitable procedure for providing post-service educational awards to individuals who are selected for assignment as described in paragraph (1) after the date of enactment of this subtitle and before the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993.

"(c) RESERVATION FOR SPECIAL ASSISTANCE.—Subject to section 501(a)(2), of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126. The Corporation may not reserve more than $10,000,000 for a fiscal year for challenge grants under section 126(c).

"(d) COMPETITIVE DISTRIBUTION OF REMAINING FUNDS.—

"(1) STATE COMPETITION.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall use not less than 33⅓ percent of the allocated funds to make grants to States (through the State Commissions) on a competitive basis under section 121(a).

"(2) FEDERAL AGENCIES AND OTHER APPLICANTS.—

"(A) IN GENERAL.—The Corporation shall distribute on a competitive basis to subdivisions of States (through the State Commissions), Indian tribes, public and private not-for-profit organizations (including labor organizations and community action agencies), institutions of higher education, and Federal agencies the remainder of the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of paragraph (1) and subsections (a) and (c).

"(B) FEDERAL SHARE.—Notwithstanding section 121(e), if a Federal agency proposes to carry out a national service program using funds made available under subparagraph (A), and the Federal agency is authorized to use funds made available under Federal law (other than the national service laws) to carry out such a program, the Federal share attributable to this paragraph of the cost of carrying out the national service program shall be 50 percent of such cost. The President may by regulation specify the sources that may be used by the Federal agency to provide for the remaining share of such cost.

"(C) FEDERAL AGENCIES.—The Corporation may not distribute more than 30 percent of such remainder to Federal agencies for a fiscal year under subparagraph (A).

"(D) LIMITATIONS.—The Corporation shall limit the categories of eligible applicants for assistance under this paragraph consistent with the priorities established by the Corporation under section 133(d)(2).

"(3) PRIORITY.—In distributing the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of subsections (a) and (c) and after using 33⅓ percent of such funds to make grants under paragraph (1), in determining whether to—

"(A) use an additional portion of the funds to make a grant under paragraph (1) to a State applicant; or

"(B) distribute the portion of the funds to an applicant that is a private not-for-profit organization under paragraph (2),

the Corporation shall give preference to the private not-for-profit organization in any case in which the Corporation determines that the applicants have submitted applications of equal quality under section 130.

"(e) APPLICATION REQUIRED.—The allotment of assistance and approved national service positions to a State or Indian tribe under subsection (a), and the competitive distribution of assistance under subsection (d), shall be made by the Corporation only pursuant to an application submitted by a State or other applicant under section 130 and approved by the Corporation under section 133.

"(f) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

"(g) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

"(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into agreements with persons or entities who offer to sponsor national service positions for which the person or entity will be responsible for supplying the funds necessary to provide a national service educational award. The distribution of these approved national service positions shall be made pursuant to the agreement, and the creation of these positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under this section.

"(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) and any other funds contributed to the Corporation to support the activities of the Corporation under the national service laws shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

"SEC. 130. APPLICATION FOR ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) TIME, MANNER, AND CONTENT OF APPLICATION.—To be eligible to receive assistance under section 121 and approved national service positions for participants who serve in the national service programs to be carried out using the assistance, a State, subdivision of a State, Indian tribe, public or private not-for-profit organization (including a community action agency), institution of higher education, or Federal agency shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

"(b) TYPES OF APPLICATION INFORMATION.—In order to have adequate information upon which to consider an application under section 133, the Corporation—

"(1) may require that an applicant described in subsection (a) submit an application under subsection (a) containing—

"(A) a description of the national service programs proposed to be carried out directly by the applicant using assistance provided under section 121;

"(B) a description of the national service programs that are selected by the applicant to receive a grant from assistance requested under section 121 and a description of the process and criteria by which the programs were selected;

"(C) a description of other funding sources to be used, or sought to be used, for the national service programs referred to in subparagraphs (A) and (B), and, if the application is submitted for the purpose of seeking a renewal of assistance, a description of the success of the programs in reducing their reliance on Federal funds;

"(D) a description of the extent to which the projects to be conducted using the assistance will address unmet human, educational, environmental, or public safety needs and produce a direct benefit for the community in which the projects are performed;

"(E) a description of the plan to be used to recruit participants, including economically disadvantaged youth, for the national service programs referred to in subparagraphs (A) and (B);

"(F) a description of the manner in which the national service programs referred to in subparagraphs (A) and (B) build on existing programs, including Federal programs;

"(G) a description of the manner in which the national service programs referred to in subparagraphs (A) and (B) will involve participants—

"(i) in projects that build an ethic of civic responsibility and produce a positive change in the lives of participants through training and participation in meaningful service experiences and opportunities for reflection on such experiences; and

"(ii) in leadership positions in implementing and evaluating the program;

"(H) measurable goals for the national service programs referred to in subparagraphs (A) and (B), and a strategy to achieve such goals, in terms of—

"(i) the impact to be made in meeting unmet human, educational, environmental, or public safety needs; and

"(ii) the service experience to be provided to participants in the programs;

"(I) a description of the manner and extent to which the national service programs referred to in subparagraphs (A) and (B) conform to the national service priorities established by the Corporation under section 122(c);

"(J) a description of the past experience of the applicant in operating a comparable program or in conducting a grant program in support of other comparable programs;

"(K) a description of the type and number of proposed service positions in which participants will receive the national service educational award described in subtitle D and a description of the manner in which approved national service positions will be apportioned by the applicant;

"(L) a description of the manner and extent to which participants, representatives of the community served, community-based agencies with a demonstrated record of experience in providing services, and labor organizations contributed to the development of the national service programs referred to in subparagraphs (A) and (B), including the identity of the individual representing the labor organization who was consulted and the nature of the consultation;

"(M) a description of a plan to be used to encourage women to participate in programs referred to in subparagraphs (A) and (B); and

"(N) such other information as the Corporation may reasonably require; and

"(2) shall require that the applicant submit an application under subsection (a) containing—

"(A) a description of the jobs or positions into which participants will be placed using the assistance provided under section 121, including descriptions of specific tasks to be performed by such participants; and

"(B) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(c) APPLICATION TO RECEIVE ONLY APPROVED NATIONAL SERVICE POSITIONS.—

"(1) APPLICABILITY OF SUBSECTION.—This subsection shall apply in the case of an application in which—

"(A) the applicant is not seeking assistance under subsection (a) or (b) of section 121, but requests national service educational awards for individuals serving in service positions described in section 123; or

"(B) the applicant requests national service educational awards for service positions described in section 123, but the positions are not positions in a national service program described in section 122(a) for which assistance may be provided under subsection (a) or (b) of section 121.

"(2) SPECIAL APPLICATION REQUIREMENTS.—For the applications described in paragraph (1), the Corporation shall establish special application requirements in order to determine—

"(A) whether the service positions meet unmet human, educational, environmental, or public safety needs and meet the criteria for assistance under this subtitle; and

"(B) whether the Corporation should approve the positions as approved national service positions that include the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position.

"(d) SPECIAL RULE FOR STATE APPLICANTS.—

"(1) SUBMISSION BY STATE COMMISSION.—The application of a State for approved national service positions or for a grant under section 121(a) shall be submitted by the State Commission.

"(2) COMPETITIVE SELECTION.—The application of a State shall contain an assurance that all assistance provided under section 121(a) to the State will be used to support national service programs that were selected by the State on a competitive basis.

"(3) ASSISTANCE TO NONSTATE ENTITIES.—The application of a State shall also contain an assurance that not less than 60 percent of the assistance will be used to make grants in support of national service programs other than national service programs carried out by a State agency. The Corporation may permit a State to deviate from the percentage specified by this paragraph if the State has not received a sufficient number of acceptable applications to comply with the percentage.

"(e) SPECIAL RULE FOR CERTAIN SERVICE SPONSORS.—In the case of a program applicant that proposes to serve as the service sponsor, the application shall include the written concurrence of any local labor organization representing employees of the applicant who are engaged in the same or substantially similar work as that proposed to be carried out.

"(f) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under this section, and the Corporation shall reject an application that is submitted under this section, if the application describes a project proposed to be conducted using assistance requested by

the applicant and the project is already described in another application pending before the Corporation.

"SEC. 131. NATIONAL SERVICE PROGRAM ASSISTANCE REQUIREMENTS.

"(a) IMPACT ON COMMUNITIES.—An application submitted under section 130 shall include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) address unmet human, educational, environmental, or public safety needs through services that provide a direct benefit to the community in which the service is performed; and

"(2) comply with the nonduplication and nondisplacement requirements of section 177.

"(b) IMPACT ON PARTICIPANTS.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide participants in the national service program with the training, skills, and knowledge necessary for the projects that participants are called upon to perform;

"(2) provide support services to participants, such as the provision of appropriate information and support—

"(A) to those participants who are completing a term of service and making the transition to other educational and career opportunities; and

"(B) to those participants who are school dropouts in order to assist those participants in earning the equivalent of a high school diploma; and

"(3) provide structured opportunities for participants to reflect on their service experiences.

"(c) CONSULTATION.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide in the design, recruitment, and operation of the program for broad-based input from the community served, individuals eligible to serve as participants in the program, community-based agencies (including community action agencies) with a demonstrated record of experience in providing services, and local labor organizations representing employees of service sponsors;

"(2) prior to the placement of participants, consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to ensure compliance with the nondisplacement requirements specified in section 177; and

"(3) in the case of a program that is not funded through a State, consult with and coordinate activities with the State Commission for the State in which the program operates.

"(d) EVALUATION AND PERFORMANCE GOALS.—

"(1) IN GENERAL.—An application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(A)(i) arrange for an independent evaluation of any national service program carried out using assistance provided to the applicant under section 121; or

"(ii) with the approval of the Corporation, conduct an internal evaluation of the program;

"(B) develop measurable performance goals and evaluation methods (such as the use of surveys of participants and persons served), which are to be used as part of such evaluation to determine the impact of the program—

"(i) on communities and persons served by the projects performed by the program;

"(ii) on participants who take part in the projects; and

"(iii) in such other areas as the Corporation may require; and

"(C) cooperate with any evaluation activities undertaken by the Corporation.

"(2) ALTERNATIVE EVALUATION REQUIREMENTS.—The Corporation may establish alternative evaluation requirements for national service programs based upon the amount of assistance received under section 121 or received by a grant made by a recipient of assistance under such section. The determination of whether a national service program is covered by this paragraph shall be made in such manner as the Corporation may prescribe.

"(e) LIVING ALLOWANCES AND OTHER IN-SERVICE BENEFITS.—Except as provided in section 140(c), an application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(1) provide a living allowance and other benefits specified in section 140 to participants in any national service program carried out by the applicant using assistance provided under section 121; and

"(2) require that each national service program that receives a grant from the applicant using such assistance will also provide a living allowance and other benefits specified in section 140 to participants in the program.

"(f) SELECTION OF PARTICIPANTS FROM INDIVIDUALS RECRUITED BY CORPORATION OR STATE COMMISSIONS.—The Corporation may also require an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will select a portion of the participants for the program from among prospective participants recruited by the Corporation or State Commissions under section 138(d). The Corporation may specify a minimum percentage of participants to be selected from the national leadership pool established under section 138(e) and may vary the percentage for different types of national service programs.

"SEC. 132. INELIGIBLE SERVICE CATEGORIES.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to perform service that provides a direct benefit to any—

"(1) business organized for profit;

"(2) labor union;

"(3) partisan political organization;

"(4) organization engaged in religious activities, unless such service does not involve the use of assistance provided under section 121 or participants to give religious instruction, conduct worship services, provide instruction as part of a program that includes mandatory religious education or worship, construct, operate, or maintain facilities devoted to religious instruction or worship, or engage in any form of proselytization; or

"(5) organization that expends more than 20 percent of the annual budget of the organization, or whose primary purpose is, to influence public policy or engage in legislative advocacy activities.

"(b) ADVOCACY ACTIVITIES.—Nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

"(c) REGIONAL CORPORATION.—The requirement of subsection (a) relating to an assurance regarding direct benefits to businesses organized for profit shall not apply with respect to a Regional Corporation, as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)), that is established in accordance with such Act as a for-profit corporation but that is engaging in not-for-profit activities.

"SEC. 133. CONSIDERATION OF APPLICATIONS.

"(a) CORPORATION CONSIDERATION OF CERTAIN CRITERIA.—The Corporation shall apply the criteria described in subsections (c) and (d) in determining whether—

"(1) to approve an application submitted under section 130 and provide assistance under section 121 to the applicant; and

"(2) to approve service positions described in the application as national service positions that include the national service educational award described in subtitle D and provide such approved national service positions to the applicant.

"(b) APPLICATION TO SUBGRANTS.—

"(1) IN GENERAL.—A State or other entity that uses assistance provided under section 121(a) to support national service programs selected on a competitive basis to receive a share of the assistance shall use the criteria described in subsections (c) and (d) when considering an application submitted by a national service program to receive a portion of such assistance or an approved national service position.

"(2) CONTENTS.—The application of the State or other entity under section 130 shall contain—

"(A) a certification that the State or other entity complied with these criteria in the selection of national service programs to receive assistance;

"(B) a description of the jobs or positions into which participants will be placed using such assistance, including descriptions of specific tasks to be performed by such participants; and

"(C) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(c) ASSISTANCE CRITERIA.—The criteria required to be applied in evaluating applications submitted under section 130 are as follows:

"(1) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.

"(2) The innovative aspects of the national service program, and the feasibility of replicating the program.

"(3) The sustainability of the national service program, based on evidence such as the existence—

"(A) of strong and broad-based community support for the program; and

"(B) of multiple funding sources or private funding for the program.

"(4) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.

"(5) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are involved in the design, leadership, and operation of the program.

"(6) The extent to which projects would be conducted in areas where such projects are needed most, such as—

"(A) communities designated as enterprise zones or redevelopment areas, targeted for special economic incentives, or otherwise identifiable as having high percentages or concentrations of low-income individuals;

"(B) areas that are environmentally distressed;

"(C) areas adversely affected by reductions in defense spending or the closure or realignment of military installations; and

"(D) areas—

"(i) that have experienced a substantial reduction in population, as determined by the Corporation; and

"(ii) with high numbers or percentages of economically disadvantaged older adults.

"(7) In the case of applicants other than States, the extent to which the application is consistent with the application under section 130 of the State in which the projects would be conducted.

"(8) Such other criteria as the Corporation considers to be appropriate.

"(d) OTHER CONSIDERATIONS.—

"(1) GEOGRAPHIC DIVERSITY.—The Corporation shall ensure that recipients of assistance provided under section 121 are geographically diverse and include projects to be conducted in those urban and rural areas in a State with the highest rates of poverty.

"(2) PRIORITIES.—

"(A) IN GENERAL.—The Corporation may designate, under such criteria as may be established by the Corporation, certain national service programs or types of national service programs described in section 122(a) for priority consideration in the competitive distribution of funds under section 129(d)(2).

"(B) PROGRAMS DESIGNATED TO RECEIVE PRIORITY.—In designating national service programs to receive priority, the Corporation may include—

"(i) national service programs carried out by another Federal agency;

"(ii) national service programs that conform to the national service priorities in effect under section 122(c);

"(iii) innovative national service programs;

"(iv) national service programs that are well established in one or more States at the time of the application and are proposed to be expanded to additional States using assistance provided under section 121;

"(v) grant programs in support of other national service programs if the grant programs are to be conducted by not-for-profit organizations (including community action agencies) with a demonstrated and extensive expertise in the provision of services to meet human, educational, environmental, or public safety needs;

"(vi) professional corps programs described in section 122(a)(8); and

"(vii) programs that—

"(I) received funding under subtitle D of this Act, as in effect on the day before the date of enactment of this subtitle;

"(II) the Corporation determines to meet the requirements of sections 142 (other than subsection (g)), 143, and 148 through 150 of this Act, as in effect on such day, in addition to the requirements of this subtitle; and

"(III) include an evaluation component.

"(C) EXCEPTION.—In making a competitive distribution of funds under section 129(d)(2), the President may give priority consideration to a national service program that is—

"(i) proposed in an application submitted by a State Commission; and

"(ii) not one of the types of programs described in clauses (i) through (vi) of subparagraph (B),

if the State Commission provides an adequate explanation of the reasons why it should not be a priority of such State to carry out any of such types of programs in the State.

"(3) REVIEW PANEL.—The President shall—

"(A) establish panels of experts for the purpose of securing recommendations on applications submitted under section 130 for more than $100,000 in assistance, or for national service positions that would require more than $100,000 in national service educational awards; and

"(B) consider the opinions of such panels prior to making such determinations.

"(e) EMPHASIS ON AREAS MOST IN NEED.—In making assistance available under section 121 and in providing approved national service positions under section 123, the Corporation shall ensure that not less than 50 percent of the total amount of assistance to be distributed to States under subsections (a) and (d)(1) of section 129 for a fiscal year is provided to carry out or support national service programs and projects that—

"(1) are conducted in areas described in any of subparagraphs (A) through (D) of subsection (c)(6) or on Federal or other public lands, to address unmet human, educational, environmental, or public safety needs in such areas or on such lands; and

"(2) place a priority on the recruitment of participants who are residents of areas described in any of subparagraphs (A) through (D) of subsection (c)(6) or Federal or other public lands.

"(f) REJECTION OF STATE APPLICATIONS.—

"(1) NOTIFICATION OF STATE APPLICANTS.—If the Corporation rejects an application submitted by a State Commission under section 130 for funds described in section 129(a)(1), the Corporation shall promptly notify the State Commission of the reasons for the rejection of the application.

"(2) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State Commission notified under paragraph (1) with a reasonable opportunity to revise and resubmit the application. At the request of the State Commission, the Corporation shall provide technical assistance to the State Commission as part of the resubmission process. The Corporation shall promptly reconsider an application resubmitted under this paragraph.

"(3) REALLOTMENT.—The amount of any State's allotment under section 129(a) for a fiscal year that the Corporation determines will not be provided for that fiscal year shall be available for distribution by the Corporation as provided in paragraph (3) of such subsection.

"PART III—NATIONAL SERVICE PARTICIPANTS

"SEC. 137. DESCRIPTION OF PARTICIPANTS.

"(a) IN GENERAL.—For purposes of this subtitle, an individual shall be considered to be a participant in a national service program carried out using assistance provided under section 121 if the individual—

"(1) meets such eligibility requirements, directly related to the tasks to be accomplished, as may be established by the program;

"(2) is selected by the program to serve in a position with the program;

"(3) will serve in the program for a term of service specified in section 139 to be performed before, during, or after attendance at an institution of higher education;

"(4) is 17 years of age or older at the time the individual begins the term of service;

"(5)(A)(i) has received a high school diploma or its equivalent; or

"(ii) agrees to obtain a high school diploma or its equivalent and the individual did not drop out of an elementary or secondary school to enroll in the program; or

"(B)(i) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)); and

"(ii) meets the requirements of section 484(a) of such Act; and

"(6) is a citizen of the United States or lawfully admitted for permanent residence.

"(b) SPECIAL RULES FOR CERTAIN YOUTH PROGRAMS.—An individual shall be considered to be a participant in a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9) that is carried out with assistance provided under section 121(a) if the individual—

"(1) satisfies the requirements specified in subsection (a), except paragraph (4) of such subsection; and

"(2) is between the ages of 16 and 25, inclusive, at the time the individual begins the term of service.

"(c) WAIVER.—The Corporation may waive the requirements of subsection (a)(5)(A) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its equivalent.

"SEC. 138. SELECTION OF NATIONAL SERVICE PARTICIPANTS.

"(a) SELECTION PROCESS.—Subject to subsections (b) and (c) and section 131(f), the actual recruitment and selection of an individual to serve in a national service program receiving assistance under section 121 or to fill an approved national service position shall be conducted by the State, subdivision of a State, Indian tribe, public or private not-for-profit organization, institution of higher education, Federal agency, or other entity to which the assistance and approved national service positions are provided.

"(b) NONDISCRIMINATION AND NONPOLITICAL SELECTION OF PARTICIPANTS.—The recruitment and selection of individuals to serve in national service programs receiving assistance under section 121 or to fill approved national service positions shall be consistent with the requirements of section 175.

"(c) SECOND TERM.—Acceptance into a national service program to serve a second term of service under section 139 shall only be available to individuals who perform satisfactorily in their first term of service.

"(d) RECRUITMENT AND PLACEMENT.—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, including positions available under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951). The Corporation and State Commissions shall disseminate information

regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to economically disadvantaged youths or youths who are individuals with disabilities.

"(e) NATIONAL LEADERSHIP POOL.—

"(1) SELECTION AND TRAINING.—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

"(2) EMPHASIS ON CERTAIN INDIVIDUALS.—In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

"(A) in the Peace Corps;

"(B) as VISTA volunteers;

"(C) as participants in national service programs receiving assistance under section 121; or

"(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle.

"(3) ASSIGNMENT.—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

"SEC. 139. TERMS OF SERVICE.

"(a) IN GENERAL.—As a condition of receiving a national service educational award under subtitle D, a participant in an approved national service position shall be required to perform full- or part-time national service for at least one term of service specified in subsection (b).

"(b) TERM OF SERVICE.—

"(1) FULL-TIME SERVICE.—An individual performing full-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.

"(2) PART-TIME SERVICE.—Except as provided in paragraph (3), an individual performing part-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 900 hours during a period of—

"(A) not more than 2 years; or

"(B) not more than 3 years if the individual is enrolled in an institution of higher education while performing all or a majority of the hours of such service.

"(3) REDUCTION IN HOURS OF PART-TIME SERVICE.—The Corporation may reduce the number of hours required to be served to successfully complete part-time national service to a level determined by the Corporation, except that any reduction in the required term of service shall include a corresponding reduction in the amount of any national service educational award that may be available under subtitle D with regard to that service.

"(c) RELEASE FROM COMPLETING TERM OF SERVICE.—

"(1) RELEASE AUTHORIZED.—A recipient of assistance under section 121 or a program sponsoring an approved national service position may release a participant from completing a term of service in the position—

"(A) for compelling personal circumstances as demonstrated by the participant; or

"(B) for cause.

"(2) EFFECT OF RELEASE.—If the released participant was serving in an approved national service position, the participant may receive a portion of the national service educational award corresponding to that service in the manner provided in section 147(b), except that a participant released for cause may not receive any portion of the national service educational award.

"SEC. 140. LIVING ALLOWANCES FOR NATIONAL SERVICE PARTICIPANTS.

"(a) PROVISION OF LIVING ALLOWANCE.—

"(1) LIVING ALLOWANCE PERMITTED.—Subject to paragraph (3), a national service program carried out using assistance provided under section 121 shall provide to each participant in the program a living allowance in such an amount as may be established by the program.

"(2) LIMITATION ON FEDERAL SHARE.—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 121 and using any other Federal funds shall not exceed the lesser of—

"(A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(B) 85 percent of the annual living allowance established by the national service program involved.

"(3) MAXIMUM LIVING ALLOWANCE.—Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a national service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(4) PRORATION OF LIVING ALLOWANCE.—The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a reduced term of service under section 139(b)(3).

"(b) COVERAGE OF CERTAIN EMPLOYMENT-RELATED TAXES.—To the extent a national service program that receives assistance under section 121 is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of the Internal Revenue Code of 1986 (26 U.S.C. 3111, 3301) and taxes imposed on an employer under a workmen's compensation act, the assistance provided to the program under section 121 shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

"(1) the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(2) the annual living allowance established by the program.

"(c) EXCEPTION FROM MAXIMUM LIVING ALLOWANCE FOR CERTAIN ASSISTANCE.—A professional corps program described in section 122(a)(8) that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(3) may still apply for such assistance, except that—

"(1) any assistance provided to the applicant under section 121 may not be used to pay for any portion of the allowance;

"(2) the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and

"(3) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

"(d) HEALTH INSURANCE.—

"(1) IN GENERAL.—A State or other recipient of assistance under section 121 shall provide a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance if the participant is not otherwise covered by a health care policy. Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 121. The Corporation shall establish minimum standards that all plans shall meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

"(2) OPTION.—A State or other recipient of assistance under section 121 may elect to provide from the funds of the State or recipient a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

"(e) CHILD CARE.—

"(1) AVAILABILITY.—A State or other recipient of assistance under section 121 shall—

"(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

"(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

"(2) GUIDELINES.—The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

"(f) WAIVER OF LIMITATION ON FEDERAL SHARE.—The Corporation may waive in whole or in part the limitation on the Federal share specified in this section with respect to a particular national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"(g) LIMITATION ON NUMBER OF TERMS OF SERVICE FOR FEDERALLY SUBSIDIZED LIVING ALLOWANCE.—No national service program may use assistance provided under section 121, or any other Federal funds, to provide a living allowance under subsection (a), a health care policy under subsection (d), or child care or a child care allowance under subsection (e), to an individual for a third, or subsequent, term of service described in section 139(b) by the individual in a national service program carried out under this subtitle.

"SEC. 141. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) ELIGIBILITY GENERALLY.—A participant in a national service program carried out using assistance provided to an applicant under section 121 shall be eligible for the national service educational award described in subtitle D if the participant—

"(1) serves in an approved national service position; and

"(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

"(b) SPECIAL RULE FOR VISTA VOLUNTEERS.—A VISTA volunteer who serves in an approved national service position shall be ineligible for a national service educational award if the VISTA volunteer accepts the stipend authorized under section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1)."

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle C of title I of such Act and inserting the following new items:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"Sec. 121. Authority to provide assistance and approved national service positions.
"Sec. 122. Types of national service programs eligible for program assistance.
"Sec. 123. Types of national service positions eligible for approval for national service educational awards.
"Sec. 124. Types of program assistance.
"Sec. 125. Training and technical assistance.
"Sec. 126. Other special assistance.

"PART II—APPLICATION AND APPROVAL PROCESS

"Sec. 129. Provision of assistance and approved national service positions by competitive and other means.
"Sec. 130. Application for assistance and approved national service positions.
"Sec. 131. National service program assistance requirements.
"Sec. 132. Ineligible service categories.
"Sec. 133. Consideration of applications.

"PART III—NATIONAL SERVICE PARTICIPANTS

"Sec. 137. Description of participants.
"Sec. 138. Selection of national service participants.
"Sec. 139. Terms of service.
"Sec. 140. Living allowances for national service participants.
"Sec. 141. National service educational awards."

SEC. 102. NATIONAL SERVICE TRUST AND PROVISION OF NATIONAL SERVICE EDUCATIONAL AWARDS.

(a) ESTABLISHMENT OF TRUST; PROVISION OF AWARDS.—Subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) is amended to read as follows:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards

"SEC. 145. ESTABLISHMENT OF THE NATIONAL SERVICE TRUST.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the National Service Trust. The Trust shall consist of—

"(1) from the amounts appropriated to the Corporation and made available to carry out this subtitle pursuant to section 501(a)(2), such amounts as the Corporation may designate to be available for the payment of—

"(A) national service educational awards; and

"(B) interest expenses pursuant to subsection 148(e);

"(2) any amounts received by the Corporation as gifts, bequests, devise, or otherwise pursuant to section 196(a)(2); and

"(3) the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust.

"(b) INVESTMENT OF TRUST.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the Trust. Except as otherwise expressly provided in instruments concerning a gift, bequest, devise, or other donation and agreed to by the Corporation, such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the marketplace. Any obligation acquired by the Trust may be sold by the Secretary at the market price.

"(c) EXPENDITURES FROM TRUST.—Amounts in the Trust shall be available, to the extent provided for in advance by appropriation, for payments of national service educational awards in accordance with section 148.

"(d) REPORTS TO CONGRESS ON RECEIPTS AND EXPENDITURES.—The Corporation shall submit an annual report to the Congress on the financial status of the Trust. Such report shall—

"(1) specify the amount deposited to the Trust from the most recent appropriation to the Corporation, the amount received by the Corporation as gifts or bequest during the period covered by the report, and any amounts obtained by the Trust pursuant to subsection (a)(3);

"(2) identify the number of individuals who are currently performing service to qualify, or have qualified, for national service educational awards;

"(3) identify the number of individuals whose expectation to receive national service educational awards during the period covered by the report—

"(A) has been reduced pursuant to section 147(b); or

"(B) has lapsed pursuant to section 146(d); and

"(4) estimate the number of additional approved national service positions which the Corporation will be able to make available under subtitle C on the basis of any accumulated surplus in the Trust above the amount required to provide national service educational awards to individuals identified under paragraph (2), including any amounts available as a result of the circumstances referred to in paragraph (3).

"SEC. 146. INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

"(a) ELIGIBLE INDIVIDUALS.—An individual shall be eligible to receive a national service educational award from the National Service Trust if the individual—

"(1) successfully completes the required term of service described in subsection (b) in an approved national service position;

"(2) was 17 years of age or older at the time the individual began serving in the approved national service position or was an out-of-school youth serving in an approved national service position with a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9);

"(3) at the time the individual uses the national service educational award—

"(A) has received a high school diploma, or the equivalent of such diploma;

"(B)(i) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)); and

"(ii) meets the requirements of section 484(a) of such Act; or

"(C) has received a waiver described in section 137(c); and

"(4) is a citizen of the United States or lawfully admitted for permanent residence.

"(b) TERM OF SERVICE.—The term of service for an approved national service position shall not be less than the full- or part-time term of service specified in section 139(b).

"(c) LIMITATION ON NUMBER OF TERMS OF SERVICE FOR AWARDS.—Although an individual may serve more than 2 terms of service described in subsection (b) in an approved national service position, the individual shall receive a national service educational award from the National Service Trust only on the basis of the first and second of such terms of service.

"(d) TIME FOR USE OF EDUCATIONAL AWARD.—

"(1) FIVE-YEAR REQUIREMENT.—An individual eligible to receive a national service educational award under this section may not use such award after the end of the 5-year period beginning on the date the individual completes the term of service in an approved national service position that is the basis of the award.

"(2) EXCEPTION.—The Corporation may extend the period within which an individual may use a national service educational award if the Corporation determines that the individual—

"(A) was unavoidably prevented from using the national service educational award during the original 5-year period; or

"(B) performed another term of service in an approved national service position during that period.

"SEC. 147. DETERMINATION OF THE AMOUNT OF THE NATIONAL SERVICE EDUCATIONAL AWARD.

"(a) AMOUNT GENERALLY.—Except as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of full-time service as provided in section 139(b)(1) in an approved national service position shall receive a national service educational award having a value equal to $5,000 for each of not more than 2 of such terms of service. Except as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of part-time service as provided in section 139(b)(2) in an approved national service position shall receive a national service educational award having a value equal to $2,500 for each of not more than 2 of such terms of service.

"(b) AWARD FOR PARTIAL COMPLETION OF SERVICE.—If an individual serving in an approved national service position is released in accordance with section 139(c)(1)(A) from completing the term of service agreed to by the individual, the Corporation may provide the individual with that portion of the national service educational award approved for the individual that corresponds to the quantity of the term of service actually completed by the individual.

"SEC. 148. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) IN GENERAL.—Amounts in the Trust shall be available—

"(1) to repay student loans in accordance with subsection (b);

"(2) to pay all or part of the cost of attendance at an institution of higher education in accordance with subsection (c);

"(3) to pay expenses incurred in participating in an approved school-to-work program in accordance with subsection (d); and

"(4) to pay interest expenses in accordance with regulations prescribed pursuant to subsection (e).

"(b) USE OF EDUCATIONAL AWARD TO REPAY OUTSTANDING STUDENT LOANS.—

"(1) APPLICATION BY ELIGIBLE INDIVIDUALS.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the repayment of qualified student loans shall submit, in a manner prescribed by the Corporation, an application to the Corporation that—

"(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

"(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans;

"(C) specifies the qualified student loan to which the individual desires to apply the national service educational award, in any case in which the total of the amounts described in subparagraph (B) is greater than the amount of the national service educational award to which the individual is entitled; and

"(D) contains or is accompanied by such other information as the Corporation may require.

"(2) DISBURSEMENT OF REPAYMENTS.—Upon receipt of an application from an eligible individual of an application that complies with paragraph (1), the Corporation shall, as promptly as practicable consistent with paragraph (5), disburse the amount of the national service educational award that the participant has earned. Such disbursement shall be made by check or other means that is payable to the holder of the loan and requires the endorsement or other certification by the eligible individual.

"(3) APPLICATION OF DISBURSED AMOUNTS.—If the amount disbursed under paragraph (2) is less than the principal and accrued interest on any qualified student loan, such amount shall first be applied to the repayment of principal. In a case described in paragraph (1)(C), such amount shall be applied to the loan described in paragraph (1)(C).

"(4) REPORTS BY HOLDERS.—Any holder receiving a loan payment pursuant to this subsection shall submit to the Corporation such information as the Corporation may require to verify that such payment was applied in accordance with this subsection and any regulations prescribed to carry out this subsection.

"(5) AUTHORITY TO AGGREGATE PAYMENTS.—The Corporation may, by regulation, provide for the aggregation of payments to holders under this subsection.

"(6) NOTIFICATION.—On disbursing a national service educational award to which an individual is entitled under paragraph (2) and applying the award to a loan, the Corporation shall notify the individual of the amount disbursed for each such loan and the date of the disbursal.

"(7) DEFINITIONS.—As used in this subsection:

"(A) QUALIFIED STUDENT LOAN.—The term 'qualified student loan' means—

"(i) any loan made, insured, or guaranteed pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2); and

"(ii) any loan made pursuant to title VII or VIII of the Public Health Service Act (42 U.S.C. 292a et seq.).

"(B) HOLDER.—The term 'holder' with respect to any eligible loan means the original lender or, if the loan is subsequently sold, transferred, or assigned to some other person, and such other person acquires a legally enforceable right to receive payments from the borrower, such other person.

"(c) USE OF EDUCATIONAL AWARDS TO PAY CURRENT EDUCATIONAL EXPENSES.—

"(1) APPLICATION BY ELIGIBLE INDIVIDUAL.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the payment of full-time or part-time educational expenses, that have been incurred by the individual prior to the service of the individual under subtitle C, shall, on a form prescribed by the Corporation, submit an application to the institution of higher education in which the student will be enrolled that contains such information as the Corporation may require to verify the individual's eligibility.

"(2) SUBMISSION OF REQUESTS FOR PAYMENT BY INSTITUTIONS.—An institution of higher education that receives one or more applications that comply with paragraph (1) shall submit to the Corporation a statement, in a manner prescribed by the Corporation, that—

"(A) identifies each eligible individual filing an application under paragraph (1) for a disbursement of the individual's national service educational award under this subsection;

"(B) specifies the amounts for which such eligible individuals are, consistent with paragraph (6), qualified for disbursement under this subsection;

"(C) certifies that—

"(i) the institution of higher education has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

"(ii) the institution's eligibility to participate in any of the programs under title IV of such Act (20 U.S.C. 1070 et seq.) has not been limited, suspended, or terminated; and

"(iii) individuals using national service educational awards received under this subtitle to pay for educational costs do not comprise more than 15 percent of the total student population of the institution; and

"(D) contains such provisions concerning financial compliance as the Corporation may require.

"(3) DISBURSEMENT OF PAYMENTS.—Upon receipt of a statement from an institution of higher education that complies with paragraph (2), the Corporation shall, subject to paragraph (4), disburse the total amount of the national service educational awards for which eligible individuals who have submitted applications to that institution under paragraph (1) are scheduled to receive. Such disbursement shall be made by check or other means that is payable to the institution and requires the endorsement or other certification by the eligible individual.

"(4) MULTIPLE DISBURSEMENTS REQUIRED.—The total amount required to be disbursed to an institution of higher education under paragraph (3) for any period of enrollment shall be disbursed by the Corporation in 2 or more installments, none of which exceeds ½ of such total amount. The interval between the first and second such installment shall not be less than ½ of such period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(5) REFUND RULES.—The Corporation shall, by regulation, provide for the refund to the Corporation (and the crediting to the national service educational award of an eligible individual) of amounts disbursed to institutions for the benefit of eligible individuals who withdraw or otherwise fail to complete the period of enrollment for which the assistance was provided. Such regulations shall be consistent with the fair and equitable refund policies required of institutions pursuant to section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b). Amounts refunded to the Trust pursuant to this paragraph may be used by the Corporation to fund additional approved national service positions under subtitle C.

"(6) MAXIMUM AWARD.—The portion of an eligible individual's total available national service educational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

"(A) the eligible individual's cost of attendance for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711); and

"(B) the sum of—

"(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

"(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c)).

"(d) USE OF EDUCATIONAL AWARD TO PARTICIPATE IN APPROVED SCHOOL-TO-WORK PROGRAMS.—The Corporation shall by regulation provide for the payment of national service educational awards to permit eligible individuals to participate in school-to-work programs approved by the Secretaries of Labor and Education.

"(e) INTEREST PAYMENTS DURING FORBEARANCE ON LOAN REPAYMENT.—The Corporation may provide by regulation for the payment on behalf of an eligible individual of interest that accrues during a period for which such individual has obtained forbearance in the repayment of a qualified student loan (as defined in subsection (b)(7)), if the eligible individual successfully completes the required term of service (as determined under section 146(b)) of the individual. Such regulations shall be prescribed after consultation with the Secretary of Education.

"(f) EXCEPTION.—

"(1) OPTION.—With the approval of the President, a national service program that receives assistance under section 121 may offer to each participant in the program the option of—

"(A) waiving the right of the participant to receive a national service educational award; and

"(B) receiving an alternative post-service benefit.

"(2) SOURCES OF FUNDING.—In providing for the alternative post-service benefit, the program may not use funds made available under this Act or any other Federal law.

"(g) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Notwithstanding section 101 of this Act, for purposes of this section the term 'institution of higher education' has the meaning provided by section 481(a) of the

Higher Education Act of 1965 (20 U.S.C. 1088(a)).".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle D of title I of such Act and inserting the following new items:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards

"Sec. 145. Establishment of the National Service Trust.

"Sec. 146. Individuals eligible to receive a national service educational award from the Trust.

"Sec. 147. Determination of the amount of the national service educational award.

"Sec. 148. Disbursement of national service educational awards.".

(c) CONFORMING AMENDMENTS.—

(1) ELIGIBILITY FOR SUBSIDIZED STAFFORD LOANS.—Section 428(a)(2)(C)(i) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(2)(C)(i)) is amended by inserting "any national service educational award such student will receive under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.)," after "parts C and E of this title,".

(2) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—Section 428 of the Higher Education Act of 1965 is amended—

(A) in subsection (b)(1)—

(i) by redesignating subparagraphs (W), (X), and (Y) as subparagraphs (X), (Y), and (Z), respectively; and

(ii) by inserting after subparagraph (V) the following new subparagraph:

"(W)(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

"(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;"; and

(B) in subsection (c)(3)(A), by striking "subsection (b)(1)(V)" and inserting "subparagraphs (V) and (W) of subsection (b)(1)".

(3) ELIGIBILITY FOR STAFFORD LOAN FORGIVENESS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078-10) is amended—

(A) in subsection (b)(1), is amended by striking "October 1, 1992" and inserting "October 1, 1989"; and

(B) in subsection (c), by adding at the end the following new paragraph:

"(5) INELIGIBILITY OF NATIONAL SERVICE EDUCATIONAL AWARD RECIPIENTS.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).".

(4) ELIGIBILITY FOR PERKINS LOAN FORGIVENESS.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended by adding at the end the following new paragraph:

"(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).".

(5) IMPACT ON GENERAL NEEDS ANALYSIS.—Section 480(j) of such Act (20 U.S.C. 1087vv(j)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), any national service educational award such student will receive under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.) shall not be taken into account in determining estimated financial assistance not received under this title.".

SEC. 103. SCHOOL-BASED AND COMMUNITY-BASED SERVICE-LEARNING PROGRAMS.

(a) AMENDMENTS TO SERVE-AMERICA PROGRAMS.—

(1) PURPOSE.—The purpose of this subsection is to improve the Serve-America programs established under part I of subtitle B of the National and Community Service Act of 1990, and to enable the Corporation for National and Community Service, and the entities receiving financial assistance under such part, to—

(A) work with teachers in elementary schools and secondary schools within a community, and with community-based agencies, to create and offer service-learning opportunities for all school-age youth;

(B) educate teachers, and faculty providing teacher training and retraining, about service-learning, and incorporate service-learning opportunities into classroom teaching to strengthen academic learning;

(C) coordinate the work of adult volunteers who work with elementary and secondary schools as part of their community service activities; and

(D) work with employers in the communities to ensure that projects introduce the students to various careers and expose the students to needed further education and training.

(2) PROGRAMS.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by striking the subtitle heading and all that follows through the end of part I and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"Subpart A—School-Based Programs for Students

"SEC. 111. AUTHORITY TO ASSIST STATES AND INDIAN TRIBES.

"(a) USE OF FUNDS.—The Corporation, in consultation with the Secretary of Education, may make grants under section 112(b)(1), and allotments under subsections (a) and (b)(2) of section 112, to States (through State educational agencies), and to Indian tribes, to pay for the Federal share of—

"(1) planning and building the capacity of the States or Indian tribes (which may be accomplished through grants or contracts with qualified organizations) to implement school-based service-learning programs, including—

"(A) providing training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

"(B) developing service-learning curricula to be integrated into academic programs, including the age-appropriate learning component described in section 114(d)(1)(B);

"(C) forming local partnerships described in paragraph (2) or (4) to develop school-based service-learning programs in accordance with this subpart;

"(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

"(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

"(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, training, supervision, placement, salaries, and benefits of service-learning coordinators, through State distribution of Federal funds made available under this subpart to projects operated by local partnerships among—

"(A) local educational agencies; and

"(B) one or more community partners that—

"(i) shall include a public or private not-for-profit organization that—

"(I) has demonstrated expertise in the provision of services to meet human, educational, environmental, or public safety needs;

"(II) was in existence 1 year before the date on which the organization submitted an application under section 114; and

"(III) will make projects available for participants, who shall be students; and

"(ii) may include a private for-profit business or private elementary or secondary school;

"(3) planning of school-based service-learning programs through State distribution of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—

"(A) the salaries and benefits of service-learning coordinators; or

"(B) the recruitment, training, supervision, and placement of service-learning coordinators who are participants in a program under subtitle C or receive a national service educational award under subtitle D,

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); and

"(4) implementing, operating, or expanding school-based service-learning programs involving adult volunteers to utilize service-learning to improve the education of students through State distribution of Federal funds made available under this part to local partnerships among—

"(A) local educational agencies; and

"(B) one or more—

"(i) public or private not-for-profit organizations;

"(ii) other educational agencies; or

"(iii) private for-profit businesses,

that coordinate and operate projects for participants, who shall be students.

"(b) RELATED EXPENSES.—A partnership, local educational agency, or other qualified organization that receives financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, evaluations, and

for other reasonable expenses related to the activities.

"SEC. 111A. AUTHORITY TO ASSIST LOCAL APPLICANTS IN NONPARTICIPATING STATES.

"In any fiscal year in which a State does not submit an application under section 113, for an allotment under subsection (a) or (b)(2) of section 112, that meets the requirements of section 113 and such other requirements as the President may determine to be appropriate, the Corporation may use the allotment of that State to make direct grants to pay for the Federal share of the cost of—

"(1) carrying out the activities described in paragraph (2) or (4) of section 111(a), to a local partnership described in such paragraph; or

"(2) carrying out the activities described in paragraph (3) of such section, to an agency described in such paragraph,

that is located in the State.

"SEC. 111B. AUTHORITY TO ASSIST PUBLIC OR PRIVATE NOT-FOR-PROFIT ORGANIZATIONS.

"(a) IN GENERAL.—The Corporation may make a grant under section 112(b)(1) to a public or private not-for-profit organization that—

"(1) has experience with service-learning;

"(2) was in existence 1 year before the date on which the organization submitted an application under section 114(a); and

"(3) meets such other criteria as the President may establish.

"(b) USE OF FUNDS.—Such an organization may use a grant made under subsection (a) to make grants to partnerships described in paragraph (2) or (4) of section 111(a) to implement, operate, or expand school-based service-learning programs as described in such section and provide technical assistance and training to appropriate persons.

"SEC. 112. GRANTS AND ALLOTMENTS.

"(a) INDIAN TRIBES AND TERRITORIES.—Of the amounts appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Corporation may also make payments from such amount to Palau, in accordance with its needs, until such time as the Compact of Free Association with Palau is ratified.

"(b) GRANTS AND ALLOTMENTS THROUGH STATES.—The Corporation shall use the remainder of the funds appropriated to carry out this subpart for any fiscal year as follows:

"(1) GRANTS.—Except as provided in paragraph (3), from 25 percent of such funds, the Corporation may make grants, on a competitive basis, to—

"(A) States and Indian tribes; or

"(B) as described in section 111B, to grantmaking entities.

"(2) ALLOTMENTS.—

"(A) SCHOOL-AGE YOUTH.—Except as provided in paragraph (3), from 37.5 percent of such funds, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such funds as the number of school-age youth in the State bears to the total number of school-age youth of all States.

"(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Except as provided in paragraph (3), from 37.5 percent of such funds, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such funds as the allocation to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.) bears to such allocations to all States.

"(3) MINIMUM AMOUNT.—No State shall receive, under paragraph (2), an allotment that is less than the allotment such State received for fiscal year 1993 under section 112(b) of this Act, as in effect on the day before the date of enactment of this part. If the amount of funds made available in a fiscal year to carry out paragraph (2) is insufficient to make such allotments, the Corporation shall make available sums from the 25 percent described in paragraph (1) for such fiscal year to make such allotments.

"(4) DEFINITION.—Notwithstanding section 101(27), for purposes of this subsection, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and an Indian tribe.

"(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe does not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the President may determine to be appropriate, the Corporation shall, after making any grants under section 111A to a partnership or agency described in such section, make any remainder of such allotment available for reallotment to such other States, and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), if less than $20,000,000 is appropriated for any fiscal year to carry out this subpart, the Corporation shall award grants to States and Indian tribes, from the amount so appropriated, on a competitive basis to pay for the Federal share of the activities described in section 111.

"SEC. 113. STATE OR TRIBAL APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a grant under section 112(b)(1), an allotment under subsection (a) or (b)(2) of section 112, a reallotment under section 112(c), or a grant under section 112(d), a State, acting through the State educational agency, or an Indian tribe, shall prepare, submit to the Corporation, and obtain approval of, an application at such time and in such manner as the President may reasonably require.

"(b) CONTENTS.—An application that is submitted under subsection (a) with respect to service-learning programs described in section 111 shall include—

"(1) a 3-year strategic plan, or a revision of a previously approved 3-year strategic plan, for promoting service-learning through the programs, which plan shall contain such information as the President may reasonably require, including information demonstrating that the programs will be carried out in a manner consistent with the approved strategic plan;

"(2) assurances that—

"(A) the applicant will keep such records and provide such information to the Corporation with respect to the programs as may be required for fiscal audits and program evaluation; and

"(B) the applicant will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

"(3) such additional information as the President may reasonably require.

"SEC. 114. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—To be eligible to receive a grant in accordance with section 111B(a) to make grants relating to school-based service-learning programs described in section 111(a)(2), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS IN NONPARTICIPATING STATES.—To be eligible to receive a grant from the Corporation in the circumstances described in section 111A to carry out an activity described in such section, a partnership or agency described in such section shall prepare, submit to the Corporation, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) APPLICATION TO STATE OR INDIAN TRIBE TO RECEIVE ASSISTANCE TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—Any—

"(A) qualified organization that desires to receive financial assistance under this subpart from a State or Indian tribe for an activity described in section 111(a)(1);

"(B) partnership described in section 111(a)(2) that desires to receive such assistance from a State, Indian tribe, or grantmaking entity for an activity described in section 111(a)(2);

"(C) agency described in section 111(a)(3) that desires to receive such assistance from a State or Indian tribe for an activity described in such section; or

"(D) partnership described in section 111(a)(4) that desires to receive such assistance from a State or Indian tribe for an activity described in such section,

to be carried out through a service-learning program described in section 111, shall prepare, submit to the State educational agency, Indian tribe, or grantmaking entity, and obtain approval of, an application for the program.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the agency, tribe, or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 111, including, at a minimum—

"(1) assurances that—

"(A) prior to the placement of a participant, the entity carrying out the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees;

"(B) the entity carrying out the program will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to analyze and apply their service experiences; and

"(C) the entity carrying out the program will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

"(2) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

"(A) carry out activities described in section 111B(b) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

"(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 113 or this section, and the Corporation shall reject an application that is submitted under section 113 or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 115. CONSIDERATION OF APPLICATIONS.

"(a) CRITERIA FOR APPLICATIONS.—In approving applications for financial assistance under subsection (a), (b), (c), or (d) of section 112, the Corporation shall consider such criteria with respect to sustainability, replicability, innovation, and quality of programs under this subpart as the President may by regulation specify. In providing assistance under this subpart, a State educational agency, Indian tribe, or grantmaking entity shall consider such criteria.

"(b) PRIORITY FOR LOCAL APPLICATIONS.—In providing assistance under this subpart, a State educational agency or Indian tribe, or the Corporation if section 111A or 111B applies, shall give priority to entities that submit applications under section 114 with respect to service-learning programs described in section 111 that—

"(1) involve participants in the design and operation of the program;

"(2) are in the greatest need of assistance, such as programs targeting low-income areas;

"(3) involve—

"(A) students from public elementary or secondary schools, and students from private elementary or secondary schools, serving together; or

"(B) students of different ages, races, sexes, ethnic groups, disabilities, or economic backgrounds, serving together; or

"(4) are integrated into the academic program of the participants.

"(c) REJECTION OF APPLICATIONS.—If the Corporation rejects an application submitted by a State under section 113 for an allotment under subsection (b)(2) of section 112, the Corporation shall promptly notify the State of the reasons for the rejection of the application. The Corporation shall provide the State with a reasonable opportunity to revise and resubmit the application and shall provide technical assistance, if needed, to the State as part of the resubmission process. The Corporation shall promptly reconsider such resubmitted application.

"SEC. 115A. PARTICIPATION OF STUDENTS AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) IN GENERAL.—To the extent consistent with the number of students in the State or Indian tribe or in the school district of the local educational agency involved who are enrolled in private not-for-profit elementary and secondary schools, such State, Indian tribe, or agency shall (after consultation with appropriate private school representatives) make provision—

"(1) for the inclusion of services and arrangements for the benefit of such students so as to allow for the equitable participation of such students in the programs implemented to carry out the objectives and provide the benefits described in this subpart; and

"(2) for the training of the teachers of such students so as to allow for the equitable participation of such teachers in the programs implemented to carry out the objectives and provide the benefits described in this subpart.

"(b) WAIVER.—If a State, Indian tribe, or local educational agency is prohibited by law from providing for the participation of students or teachers from private not-for-profit schools as required by subsection (a), or if the Corporation determines that a State, Indian tribe, or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the President shall waive such requirements and shall arrange for the provision of services to such students and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2727(b)).

"SEC. 116. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) SHARE.—

"(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant or allotment is made under this subpart may not exceed—

"(A) 90 percent of the total cost of the program for the first year for which the program receives assistance under this subpart;

"(B) 80 percent of the total cost of the program for the second year for which the program receives assistance under this subpart;

"(C) 70 percent of the total cost of the program for the third year for which the program receives assistance under this subpart; and

"(D) 50 percent of the total cost of the program for the fourth year, and for any subsequent year, for which the program receives assistance under this subpart.

"(2) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subpart—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under the national service laws).

"(b) WAIVER.—The President may waive the requirements of subsection (a) in whole or in part with respect to any such program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 116A. LIMITATIONS ON USES OF FUNDS.

"(a) ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to a State educational agency, Indian tribe, or grantmaking entity that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

"(A) the original recipient; or

"(B) the entity carrying out the service-learning programs supported with the assistance.

"(2) RULES ON USE.—The President may by rule prescribe the manner and extent to which—

"(A) such assistance may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient; and

"(ii) the entity carrying out the service-learning programs supported with the assistance.

"(b) CAPACITY-BUILDING ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not less than 10 percent and not more than 15 percent of the amount of assistance provided to a State educational agency or Indian tribe that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to build capacity through training, technical assistance, curriculum development, and coordination activities, described in section 111(a)(1).

"(2) WAIVER.—The President may waive the requirements of paragraph (1) in order to permit an agency or a tribe to use not less than 10 percent and not more than 25 percent of such amount to build capacity as provided in paragraph (1). To be eligible to receive such a waiver such an agency or tribe shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(c) LOCAL USES OF FUNDS.—Funds made available under this subpart may not be used to pay any stipend, allowance, or other financial support to any student who is a participant under this subtitle, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subpart.

"SEC. 116B. DEFINITIONS.

"As used in this subpart:

"(1) GRANTMAKING ENTITY.—The term 'grantmaking entity' means an organization described in section 111B(a).

"(2) SCHOOL-BASED.—The term 'school-based' means based in an elementary school or a secondary school.

"(3) STUDENT.—Notwithstanding section 101(30), the term 'student' means an individual who is enrolled in an elementary or secondary school on a full- or part-time basis.

"Subpart B—Community-Based Service Programs for School-Age Youth

"SEC. 117. DEFINITIONS.

"As used in this subpart:

"(1) COMMUNITY-BASED SERVICE PROGRAM.—The term 'community-based service program' means a program described in section 117A(b)(1)(A).

"(2) GRANTMAKING ENTITY.—The term 'grantmaking entity' means a qualified organization that—

"(A) submits an application under section 117C(a) to make grants to qualified organizations;

"(B) was in existence 1 year before the date on which the organization submitted the application;

"(C) has experience with service-learning; and

"(D) meets such other criteria as the President shall establish.

"(3) QUALIFIED ORGANIZATION.—The term 'qualified organization' means a public or private not-for-profit organization with experience working with school-age youth that meets such criteria as the President may establish.

"SEC. 117A. GENERAL AUTHORITY.

"(a) GRANTS.—From the funds appropriated to carry out this subpart for a fiscal year, the Corporation may make grants to State Commissions, grantmaking entities, and qualified organizations to pay for the Federal share of the implementation, operation, expansion, or replication of community-based service programs.

"(b) USE OF FUNDS.—

"(1) STATE COMMISSIONS AND GRANTMAKING ENTITIES.—A State Commission or grantmaking entity may use a grant made under subsection (a)—

"(A) to make a grant to a qualified organization to implement, operate, expand, or replicate a community-based service program that provides for meaningful human, educational, environmental, or public safety service by participants, who shall be school-age youth; or

"(B) to provide training and technical assistance to such an organization.

"(2) QUALIFIED ORGANIZATIONS.—A qualified organization, other than a grantmaking entity, may use a grant made under subsection (a) to implement, operate, expand, or replicate a program described in paragraph (1)(A).

"SEC. 117B. STATE APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under section 117A(a), a State Commission shall prepare, submit to the Corporation, and obtain approval of, an application.

"(b) SUBMISSION.—Such application shall be submitted to the Corporation at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) CONTENTS.—Such an application shall include, at a minimum, a State plan that contains the information and assurance described in section 117C(d) with respect to each community-based service program proposed to be carried out through funding distributed by the State Commission under this subpart.

"SEC. 117C. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to make grants under section 117A(b)(1), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out through grants made to qualified organizations. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to implement, operate, expand, or replicate a community service program, a qualified organization shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out at multiple sites, or that proposes a model or an innovative community-based service program. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) APPLICATION TO STATE COMMISSION OR GRANTMAKING ENTITY TO RECEIVE GRANTS TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from a State Commission or grantmaking entity under section 117A(b)(1), a qualified organization shall prepare, submit to the Commission or entity, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Commission or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 117, including, at a minimum—

"(1) an assurance that the entity carrying out the program proposed by the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f);

"(2) an assurance that the entity carrying out the program will, prior to placing a participant in the program, consult with any local labor organization representing employees in the area in which the program will be carried out that are engaged in the same or similar work as the work proposed to be carried out by the program, to prevent the displacement of such employees; and

"(3) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

"(A) carry out activities described in section 117A(b)(1) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

"(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 117B or this section, and the Corporation shall reject an application that is submitted under section 117B or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 117D. CONSIDERATION OF APPLICATIONS.

"(a) APPLICATION OF CRITERIA.—The Corporation shall apply the criteria described in subsection (b) in determining whether to approve an application submitted under section 117B or under subsection (a) or (b) of section 117C and to provide assistance under section 117A to the applicant on the basis of the application.

"(b) ASSISTANCE CRITERIA.—In evaluating such an application with respect to a program under this subpart, the Corporation shall consider the criteria established for national service programs under section 133(c).

"(c) APPLICATION TO SUBGRANTS.—A State Commission or grantmaking entity shall apply the criteria described in subsection (b) in determining whether to approve an application under section 117C(c) and to make a grant under section 117A(b)(1) to the applicant on the basis of the application.

"SEC. 117E. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant is made under this subpart may not exceed the percentage specified in subparagraph (A), (B), (C), or (D) of section 116(a)(1), as appropriate.

"(2) CALCULATION.—Each recipient of assistance under this subpart shall comply with section 116(a)(2).

"(b) WAIVER.—The President may waive the requirements of subsection (a), in whole or in part, as provided in section 116(b).

"SEC. 117F. LIMITATIONS ON USES OF FUNDS.

"(a) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount of assistance provided to a State Commission, grantmaking entity, or qualified organization that is the original recipient of a grant under section 117A(a) for a fiscal year may be used to pay for administrative costs incurred by—

"(1) the original recipient; or

"(2) the entity carrying out the community-based service programs supported with the assistance.

"(b) RULES ON USE.—The President may by rule prescribe the manner and extent to which—

"(1) such assistance may be used to cover administrative costs; and

"(2) that portion of the assistance available to cover administrative costs should be distributed between—

"(A) the original recipient; and

"(B) the entity carrying out the community-based service programs supported with the assistance.

"Subpart C—Clearinghouse

"SEC. 118. SERVICE-LEARNING CLEARINGHOUSE.

"(a) IN GENERAL.—The Corporation shall provide financial assistance, from funds appropriated to carry out subtitle H, to agencies described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such entity, with respect to information about service-learning.

"(b) PUBLIC AND PRIVATE NOT-FOR-PROFIT AGENCIES.—Public and private not-for-profit agencies that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

"(c) FUNCTION OF CLEARINGHOUSE.—An entity that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

"(2) conduct research and evaluations concerning service-learning;

"(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

"(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

"(6)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to

service-learning, and service-learning projects; and

"(B) coordinate the activities of the Clearinghouse with appropriate entities to avoid duplication of effort;

"(7) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

"(8) assist organizations in recruiting, screening, and placing service-learning coordinators; and

"(9) carry out such other activities as the President determines to be appropriate.".

(b) HIGHER EDUCATION INNOVATIVE PROJECTS.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12531 et seq.) is amended by striking part II and inserting the following:

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"SEC. 119. HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE.

"(a) PURPOSE.—It is the purpose of this part to expand participation in community service by supporting innovative community service programs carried out through institutions of higher education, acting as civic institutions to meet the human, educational, environmental, or public safety needs of neighboring communities.

"(b) GENERAL AUTHORITY.—The Corporation, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions), and partnerships comprised of such institutions and of other public agencies or not-for-profit private organizations, to pay for the Federal share of the cost of—

"(1) enabling such an institution or partnership to create or expand an organized community service program that—

"(A) engenders a sense of social responsibility and commitment to the community in which the institution is located; and

"(B) provides projects for participants, who shall be students, faculty, administration, or staff of the institution, or residents of the community;

"(2) supporting student-initiated and student-designed community service projects through the program;

"(3) strengthening the leadership and instructional capacity of teachers at the elementary, secondary, and post secondary levels, with respect to service-learning, by—

"(A) including service-learning as a key component of the preservice teacher education of the institution; and

"(B) encouraging the faculty of the institution to use service-learning methods throughout their curriculum;

"(4) facilitating the integration of community service carried out under the program into academic curricula, including integration of clinical programs into the curriculum for students in professional schools, so that students can obtain credit for their community service projects;

"(5) supplementing the funds available to carry out work-study programs under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) to support service-learning and community service through the community service program;

"(6) strengthening the service infrastructure within institutions of higher education in the United States through the program; and

"(7) providing for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize service-learning.

"(c) FEDERAL SHARE.—

"(1) SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of carrying out a community service project for which a grant or contract is awarded under this part may not exceed 50 percent.

"(B) CALCULATION.—Each recipient of assistance under this part shall comply with section 116(a)(2).

"(2) WAIVER.—The President may waive the requirements of paragraph (1), in whole or in part, as provided in section 116(b).

"(d) APPLICATION FOR GRANT.—

"(1) SUBMISSION.—To receive a grant or enter into a contract under this part, an institution or partnership described in subsection (b) shall prepare, submit to the Corporation, and obtain approval of, an application at such time, in such manner, and containing such information as the Corporation may reasonably require. In requesting applications for assistance under this part, the Corporation shall specify such required information.

"(2) CONTENTS.—An application submitted under paragraph (1) shall, at a minimum, contain—

"(A) assurances that—

"(i) prior to the placement of a participant, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees; and

"(ii) the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f); and

"(B) such other assurances as the President may reasonably require.

"(e) PRIORITY.—

"(1) IN GENERAL.—In making grants and entering into contracts under subsection (b), the Corporation shall give priority to applicants that submit applications containing proposals that—

"(A) demonstrate the commitment of the institution of higher education, other than by demonstrating the commitment of the students, to supporting the community service projects carried out under the program;

"(B) specify the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

"(C) specify the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

"(D) describe any partnership that will participate in the community service projects, such as a partnership comprised of—

"(i) the institution;

"(ii)(I) a community-based agency;

"(II) a local government agency; or

"(III) a not-for-profit entity that serves or involves school-age youth or older adults; and

"(iii) a student organization;

"(E) demonstrate community involvement in the development of the proposal;

"(F) specify that the institution will use such assistance to strengthen the service infrastructure in institutions of higher education; or

"(G) with respect to projects involving delivery of service, specify projects that involve leadership development of school-age youth.

"(2) DETERMINATION.—In giving priority to applicants under paragraph (1), the Corporation shall give increased priority to such an applicant for each characteristic described in subparagraphs (A) through (G) of paragraph (1) that is reflected in the application submitted by the applicant.

"(f) NATIONAL SERVICE EDUCATIONAL AWARD.—A participant in a program funded under this part shall be eligible for the national service educational award described in subtitle D, if the participant served in an approved national service position.

"(g) DEFINITION.—Notwithstanding section 101(30), as used in this part, the term 'student' means an individual who is enrolled in an institution of higher education on a full- or part-time basis.".

(c) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle B of title I of such Act and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"SUBPART A—SCHOOL-BASED PROGRAMS FOR STUDENTS

"Sec. 111. Authority to assist States and Indian tribes.
"Sec. 111A. Authority to assist local applicants in nonparticipating States.
"Sec. 111B. Authority to assist public or private not-for-profit organizations.
"Sec. 112. Grants and allotments.
"Sec. 113. State or tribal applications.
"Sec. 114. Local applications.
"Sec. 115. Consideration of applications.
"Sec. 115A. Participation of students and teachers from private schools.
"Sec. 116. Federal, State, and local contributions.
"Sec. 116A. Limitations on uses of funds.
"Sec. 116B. Definitions.

"SUBPART B—COMMUNITY-BASED SERVICE PROGRAMS FOR SCHOOL-AGE YOUTH

"Sec. 117. Definitions.
"Sec. 117A. General authority.
"Sec. 117B. State applications.
"Sec. 117C. Local applications.
"Sec. 117D. Consideration of applications.
"Sec. 117E. Federal, State, and local contributions.
"Sec. 117F. Limitations on uses of funds.

"SUBPART C—CLEARINGHOUSE

"Sec. 118. Service-learning clearinghouse.

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"Sec. 119. Higher education innovative programs for community service.".

SEC. 104. QUALITY AND INNOVATION ACTIVITIES.

(a) REPEAL.—Subtitle E of title I of the National and Community Service Act of 1990 (42 U.S.C. 12591 et seq.) is repealed.

(b) TRANSFER.—Title I of the National and Community Service Act of 1990 is amended—

(1) by redesignating subtitle H (42 U.S.C. 12653 et seq.) as subtitle E;

(2) by inserting subtitle E (as redesignated by paragraph (1) of this subsection) after subtitle D; and

(3) by redesignating sections 195 through 195O as sections 151 through 166, respectively.

(c) INVESTMENT FOR QUALITY AND INNOVATION.—Title I of the National and Community Service Act of 1990 (as amended by subsection (b) of this section) is amended by adding at the end the following new subtitle:

"Subtitle H—Investment for Quality and Innovation

"SEC. 198. ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

"(a) METHODS OF CONDUCTING ACTIVITIES.—The Corporation may carry out this section directly or through grants, contracts, and cooperative agreements with other entities.

"(b) INNOVATION AND QUALITY IMPROVEMENT.—

"(1) ACTIVITIES.—The Corporation may undertake activities to improve the quality of national service programs and to support innovative and model programs, including—

"(A) programs, including programs for rural youth, under subtitle B or C;

"(B) employer-based retiree programs;

"(C) intergenerational programs;

"(D) programs involving individuals with disabilities as participants providing service; and

"(E) programs sponsored by Governors.

"(2) INTERGENERATIONAL PROGRAM.—An intergenerational program referred to in paragraph (1)(C) may include a program in which older adults provide services to children who participate in Head Start programs.

"(c) SUMMER PROGRAMS.—The Corporation may support service programs intended to be carried out between May 1 and October 1, except that such a program may also include a year-round component.

"(d) COMMUNITY-BASED AGENCIES.—The Corporation may provide training and technical assistance and other assistance to service sponsors and other community-based agencies that provide volunteer placements in order to improve the ability of such agencies to use participants and other volunteers in a manner that results in high-quality service and a positive service experience for the participants and volunteers.

"(e) IMPROVE ABILITY TO APPLY FOR ASSISTANCE.—The Corporation shall provide training and technical assistance, where necessary, to individuals, programs, local labor organizations, State educational agencies, State Commissions, local educational agencies, local governments, community-based agencies, and other entities to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, and for other purposes.

"(f) NATIONAL SERVICE FELLOWSHIPS.—The Corporation may award national service fellowships.

"(g) CONFERENCES AND MATERIALS.—The Corporation may organize and hold conferences, and prepare and publish materials, to disseminate information and promote the sharing of information among programs for the purpose of improving the quality of programs and projects.

"(h) PEACE CORPS AND VISTA TRAINING.—The Corporation may provide training assistance to selected individuals who volunteer to serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

"(i) PROMOTION AND RECRUITMENT.—The Corporation may conduct a campaign to solicit funds for the National Service Trust and other programs and activities authorized under the national service laws and to promote and recruit participants for programs that receive assistance under the national service laws.

"(j) TRAINING.—The Corporation may support national and regional participant and supervisor training, including leadership training and training in specific types of service and in building the ethic of civic responsibility.

"(k) RESEARCH.—The Corporation may support research on national service, including service-learning.

"(l) INTERGENERATIONAL SUPPORT.—The Corporation may assist programs in developing a service component that combines students, out-of-school youths, and older adults as participants to provide needed community services.

"(m) PLANNING COORDINATION.—The Corporation may coordinate community-wide planning among programs and projects.

"(n) YOUTH LEADERSHIP.—The Corporation may support activities to enhance the ability of youth and young adults to play leadership roles in national service.

"(o) NATIONAL PROGRAM IDENTITY.—The Corporation may support the development and dissemination of materials, including training materials, and arrange for uniforms and insignia, designed to promote unity and shared features among programs that receive assistance under the national service laws.

"(p) SERVICE-LEARNING.—The Corporation shall support innovative programs and activities that promote service-learning.

"(q) NATIONAL YOUTH SERVICE DAY.—

"(1) DESIGNATION.—April 19, 1994, and April 18, 1995 are each designated as 'National Youth Service Day'. The President of the United States is authorized and directed to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

"(2) FEDERAL ACTIVITIES.—In order to observe National Youth Service Day at the Federal level, the Corporation may organize and carry out appropriate ceremonies and activities.

"(3) ACTIVITIES.—The Corporation may make grants to not-for-profit organizations with demonstrated ability to carry out appropriate activities, in order to support such activities on National Youth Service Day.

"SEC. 198A. CLEARINGHOUSES.

"(a) ASSISTANCE.—The Corporation shall provide assistance to appropriate entities to establish one or more clearinghouses, including the clearinghouse described in section 118.

"(b) APPLICATION.—To be eligible to receive assistance under subsection (a), an entity shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

"(c) FUNCTION OF CLEARINGHOUSES.—An entity that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local community service programs with needs assessments and planning;

"(2) conduct research and evaluations concerning community service;

"(3)(A) provide leadership development and training to State and local community service program administrators, supervisors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out community service programs and participants;

"(5) provide information, curriculum materials, technical assistance relating to planning and operation of community service programs, to States and local entities eligible to receive funds under this title;

"(6)(A) gather and disseminate information on successful community service programs, components of such successful programs, innovative youth skills curriculum, and community service projects; and

"(B) coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

"(7) make recommendations to State and local entities on quality controls to improve the delivery of community service programs and on changes in the programs under this title; and

"(8) carry out such other activities as the President determines to be appropriate.

"SEC. 198B. PRESIDENTIAL AWARDS FOR SERVICE.

"(a) PRESIDENTIAL AWARDS.—

"(1) IN GENERAL.—The President of the United States, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding service programs.

"(2) INDIVIDUALS AND PROGRAMS.—Notwithstanding section 101(20)—

"(A) an individual receiving an award under this subsection need not be a participant in a program authorized under this Act; and

"(B) a program receiving an award under this subsection need not be a program authorized under this Act.

"(3) NATURE OF AWARD.—In making an award under this section to an individual or program, the President of the United States, acting through the Corporation—

"(A) is authorized to incur necessary expenses for the honorary recognition of the individual or program; and

"(B) is not authorized to make a cash award to such individual or program.

"(b) INFORMATION.—The President of the United States, acting through the Corporation, shall ensure that information concerning individuals and programs receiving awards under this section is widely disseminated.

"SEC. 198C. MILITARY INSTALLATION CONVERSION DEMONSTRATION PROGRAMS.

"(a) PURPOSES.—The purposes of this section are to—

"(1) provide meaningful training and paid employment to economically disadvantaged youth;

"(2) fully utilize military installations affected by closures or realignments;

"(3) encourage communities affected by such closures or realignments to convert the installations to community use; and

"(4) foster a sense of community pride in the youth in the community.

"(b) DEFINITIONS.—As used in this section:

"(1) AFFECTED MILITARY INSTALLATION.—The term 'affected military installation' means a military installation described in section 325(e)(1) of the Job Training Partnership Act (29 U.S.C. 1662d(e)(1)).

"(2) COMMUNITY.—The term 'community' includes a county.

"(3) CONVERT TO COMMUNITY USE.—The term 'convert to community use', used with respect to an affected military installation, includes—

"(A) conversion of the installation or a part of the installation to—

"(i) a park;

"(ii) a community center;

"(iii) a recreational facility; or

"(iv) a facility for a Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.); and

"(B) carrying out, at the installation, a construction or economic development project that is of substantial benefit, as determined by the President, to—

"(i) the community in which the installation is located; or

"(ii) a community located within such distance of the installation as the President may determine by regulation to be appropriate.

"(4) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a program described in subsection (c).

"(c) DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Corporation may make grants to communities and community-based agencies to pay for the Federal share of establishing and carrying out military installation conversion demonstration programs, to assist in converting to community use affected military installations located—

"(A) within the community; or

"(B) within such distance from the community as the President may by regulation determine to be appropriate.

"(2) DURATION.—In carrying out such a demonstration program, the community or community-based agency may carry out—

"(A) a program of not less than 6 months in duration; or

"(B) a full-time summer program.

"(d) USE OF FUNDS.—

"(1) SALARY.—A community or community-based agency that receives a grant under subsection (c) to establish and carry out a project through a demonstration program may use the funds made available through such grant to pay for a portion of the salary of the participants in the project.

"(2) LIMITATION ON AMOUNT OF SALARY.—The amount of the salary provided to a participant under paragraph (1) that may be paid using assistance provided under this section and using any other Federal funds shall not exceed the lesser of—

"(A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(B) 85 percent of the salary established by the demonstration program involved.

"(e) PARTICIPANTS.—

"(1) ELIGIBILITY.—A person shall be eligible to be selected as a participant in a project carried out through a demonstration program if the person is—

"(A) an economically disadvantaged individual; and

"(B)(i) a person described in section 153(b);

"(ii) a youth described in section 154(a); or

"(iii) an eligible youth described in section 423 of the Job Training Partnership Act (29 U.S.C. 1693).

"(2) PARTICIPATION.—Persons desiring to participate in such a project shall enter into an agreement with the service sponsor of the project to participate—

"(A) on a full-time or a part-time basis; and

"(B) for the duration referred to in subsection (f)(2)(C).

"(f) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (c), a community or community-based agency shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(2) CONTENTS.—At a minimum, such application shall contain—

"(A) a description of the demonstration program proposed to be conducted by the applicant;

"(B) a proposal for carrying out the program that describes the manner in which the applicant will—

"(i) provide preservice and inservice training, for supervisors and participants, that will be conducted by qualified individuals or qualified organizations;

"(ii) conduct an appropriate evaluation of the program; and

"(iii) provide for appropriate community involvement in the program;

"(C) information indicating the duration of the program; and

"(D) an assurance that the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f).

"(g) LIMITATION ON GRANT.—In making a grant under subsection (c) with respect to a demonstration program to assist in converting an affected military installation, the Corporation shall not make a grant for more than 25 percent of the total cost of the conversion.".

(d) TABLE OF CONTENTS.—

(1) CIVILIAN COMMUNITY CORPS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle E of title I of such Act and inserting the following:

"Subtitle E—Civilian Community Corps

"Sec. 151. Purpose.
"Sec. 152. Establishment of Civilian Community Corps Demonstration Program.
"Sec. 153. National service program.
"Sec. 154. Summer national service program.
"Sec. 155. Civilian Community Corps.
"Sec. 156. Training.
"Sec. 157. Service projects.
"Sec. 158. Authorized benefits for Corps personnel under Federal law.
"Sec. 159. Administrative provisions.
"Sec. 160. Status of Corps members and Corps personnel under Federal law.
"Sec. 161. Contract and grant authority.
"Sec. 162. Responsibilities of other departments.
"Sec. 163. Advisory board.
"Sec. 164. Annual evaluation.
"Sec. 165. Funding limitation.
"Sec. 166. Definitions.".

(2) QUALITY AND INNOVATION.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle H of title I of such Act and inserting the following:

"Subtitle H—Investment for Quality and Innovation

"Sec. 198. Additional corporation activities to support national service.
"Sec. 198A. Clearinghouses.
"Sec. 198B. Presidential awards for service.
"Sec. 198C. Military installation conversion demonstration programs.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) Section 1091(f)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) is amended by striking "195G" and inserting "158".

(B) Paragraphs (1) and (2) of section 1092(b), and sections 1092(c), 1093(a), and 1094(a) of such Act are amended by striking "195A" and inserting "152".

(C) Sections 1091(f)(2), 1092(b)(1), and 1094(a), and subsections (a) and (c) of section 1095 of such Act are amended by striking "subtitle H" and inserting "subtitle E".

(D) Section 1094(b)(1) and subsections (b) and (c)(1) of section 1095 of such Act are amended by striking "subtitles B, C, D, E, F, and G" and inserting "subtitles B, C, D, F, G, and H".

(2) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) Section 153(a) of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653b(a)) is amended by striking "195A(a)" and inserting "152(a)".

(B) Section 154(a) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653c(a)) is amended by striking "195A(a)" and inserting "152(a)".

(C) Section 155 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653d) is amended—

(i) in subsection (a), by striking "195H(c)(1)" and inserting "159(c)(1)";

(ii) in subsection (c)(2), by striking "195H(c)(2)" and inserting "159(c)(2)"; and

(iii) in subsection (d)(3), by striking "195K(a)(3)" and inserting "162(a)(3)".

(D) Section 156 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653e) is amended—

(i) in subsection (c)(1), by striking "195H(c)(2)" and inserting "159(c)(2)"; and

(ii) in subsection (d), by striking "195K(a)(3)" and inserting "162(a)(3)".

(E) Section 159 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653h) is amended—

(i) in subsection (a)—

(I) by striking "195A" and inserting "152"; and

(II) in paragraph (2), by striking "195" and inserting "151"; and

(ii) in subsection (c)(2)(C)(i), by striking "195K(a)(2)" and inserting "section 162(a)(2)".

(F) Section 161(b)(1)(B) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653j(b)(1)(B)) is amended by striking "195K(a)(3)" and inserting "162(a)(3)".

(G) Section 162(a)(2)(A) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653k(a)(2)(A)) is amended by striking "195(3)" and inserting "151(3)".

(H) Section 166 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653o) is amended—

(i) in paragraph (2), by striking "195D" and inserting "155";

(ii) in paragraph (8), by striking "195A" and inserting "152";

(iii) in paragraph (10), by striking "195D(d)" and inserting "155(d)"; and

(iv) in paragraph (11), by striking "195D(c)" and inserting "155(c)".

(f) EXTENSION OF AUTHORITY TO CONDUCT CIVILIAN COMMUNITY CORPS.—Section 1092(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2534), as amended by subsection (e)(1) of this section, is further amended by adding at the end the following new sentence: "The amount made available for the Civilian Community Corps Demonstration Program pursuant to this subsection shall remain available for expenditure during fiscal years 1993 and 1994.".

(g) PARTICIPANTS.—

(1) NATIONAL SERVICE PROGRAM.—Section 153 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653b) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) SUMMER NATIONAL SERVICE PROGRAM.—Section 154 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653c) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(h) ADDITIONAL AMENDMENT REGARDING CIVILIAN COMMUNITY CORPS.—Section 158 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653g) is amended by striking subsections (f), (g), and (h) and inserting the following new subsections:

"(f) NATIONAL SERVICE EDUCATIONAL AWARDS.—A Corps member who successfully completes a period of agreed service in the Corps may receive the national service educational award described in subtitle D if the Corps member—

"(1) serves in an approved national service position; and

"(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

"(g) ALTERNATIVE BENEFIT.—If a Corps member who successfully completes a period of agreed service in the Corps is ineligible for the national service educational award described in subtitle D, the Director may provide for the provision of a suitable alternative benefit for the Corps member.".

Subtitle B—Related Provisions

SEC. 111. DEFINITIONS.

(a) IN GENERAL.—Section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511) is amended to read as follows:

"SEC. 101. DEFINITIONS.

"For purposes of this title:

"(1) ADULT VOLUNTEER.—The term 'adult volunteer' means an individual, such as an older adult, an individual with a disability, a parent, or an employee of a business or public or private not-for-profit agency, who—

"(A) works without financial remuneration in an educational institution to assist students or out-of-school youth; and

"(B) is beyond the age of compulsory school attendance in the State in which the educational institution is located.

"(2) APPROVED NATIONAL SERVICE POSITION.—The term 'approved national service position' means a national service position for which the Corporation has approved the provision of a national service educational award described in section 147 as one of the benefits to be provided for successful service in the position.

"(3) CARRY OUT.—The term 'carry out', when used in connection with a national service program described in section 122, means the planning, establishment, operation, expansion, or replication of the program.

"(4) COMMUNITY ACTION AGENCY.—The term 'community action agency' means an entity or organization referred to in section 675(c)(2)(A) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(2)(A)).

"(5) COMMUNITY-BASED AGENCY.—The term 'community-based agency' means a private not-for-profit organization, including a church or other religious entity, that is representative of a community and that is engaged in meeting human, educational, environmental, or public safety community needs.

"(6) CORPORATION.—The term 'Corporation' means the Corporation for National and Community Service established under section 191.

"(7) ECONOMICALLY DISADVANTAGED.—The term 'economically disadvantaged' means, with respect to an individual, an individual who is determined by the President to be low-income according to the latest available data from the Department of Commerce.

"(8) ELEMENTARY SCHOOL.—The term 'elementary school' has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

"(9) INDIAN.—The term 'Indian' means a person who is a member of an Indian tribe, or is a 'Native', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(10) INDIAN LANDS.—The term 'Indian lands' means any real property owned by an Indian tribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

"(11) INDIAN TRIBE.—The term 'Indian tribe' means—

"(A) an Indian tribe, band, nation, or other organized group or community, including—

"(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act'; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

"(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)),

that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

"(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

"(12) INDIVIDUAL WITH A DISABILITY.—Except as provided in section 175(a), the term 'individual with a disability' has the meaning given the term in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

"(13) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(14) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(15) NATIONAL SERVICE LAWS.—The term 'national service laws' means this Act and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

"(16) OUT-OF-SCHOOL YOUTH.—The term 'out-of-school youth' means an individual who—

"(A) has not attained the age of 27;

"(B) has not completed college or the equivalent thereof; and

"(C) is not enrolled in an elementary or secondary school or institution of higher education.

"(17) PARTICIPANT.—

"(A) IN GENERAL.—The term 'participant' means—

"(i) for purposes of subtitle C, an individual in an approved national service position; and

"(ii) for purposes of any other provision of this Act, an individual enrolled in a program that receives assistance under this title.

"(B) RULE.—A participant shall not be considered to be an employee of the program in which the participant is enrolled.

"(18) PARTNERSHIP PROGRAM.—The term 'partnership program' means a program through which an adult volunteer, a public or private not-for-profit agency, an institution of higher education, or a business assists a local educational agency.

"(19) PRESIDENT.—The term 'President', except when used as part of the term 'President of the United States' means the President of the Corporation appointed under section 193.

"(20) PROGRAM.—The term 'program', except when used as part of the term 'academic program', means a program described in section 111(a) (other than a program referred to in paragraph (3)(B) of such section), 117A(a), 119(b)(1), or 122(a), in paragraph (1) or (2) of section 152(b), or in section 198.

"(21) PROJECT.—The term 'project' means an activity, carried out through a program that receives assistance under this title, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

"(22) SCHOOL-AGE YOUTH.—The term 'school-age youth' means—

"(A) individuals between the ages of 5 and 17, inclusive; and

"(B) children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, who receive services under part B of such Act.

"(23) SECONDARY SCHOOL.—The term 'secondary school' has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

"(24) SERVICE-LEARNING.—The term 'service-learning' means a method—

"(A) under which students or participants learn and develop through active participation in thoughtfully organized service that—

"(i) is conducted in and meets the needs of a community;

"(ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and

"(iii) helps foster civic responsibility; and

"(B) that—

"(i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and

"(ii) provides structured time for the students or participants to reflect on the service experience.

"(25) SERVICE-LEARNING COORDINATOR.—The term 'service-learning coordinator' means an individual who provides services as described in section 111(a)(3).

"(26) SERVICE SPONSOR.—The term 'service sponsor' means an organization, or other entity, that has been selected to provide a placement for a participant.

"(27) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The term also includes Palau, until such time as the Compact of Free Association is ratified.

"(28) STATE COMMISSION.—The term 'State Commission' means a State Commission on National and Community Service maintained by a State pursuant to section 178.

Except when used in section 178, the term includes an alternative administrative entity for a State approved by the Corporation under such section to act in lieu of a State Commission.

"(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

"(30) STUDENT.—The term 'student' means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 182(a)(2) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(2)) is amended by striking "adult volunteer and partnership" each place the term appears and inserting "partnership".

(2) Section 182(a)(3) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(3)) is amended by striking "adult volunteer and partnership" and inserting "partnership".

(3) Section 441(c)(2) of the Higher Education Act of 1965 (42 U.S.C. 2751(c)(2)) is amended by striking "service opportunities or youth corps as defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990" and inserting "a project, as defined in section 101(21) of the National and Community Service Act of 1990 (42 U.S.C. 12511(18))".

(4) Section 1122(a)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1137a(a)(2)(C)) is amended by striking "youth corps as defined in section 101(30) of the National and Community Service Act of 1990" and inserting "youth corps programs, as described in section 122(a)(1) of the National and Community Service Act of 1990".

(5) Section 1201(p) of the Higher Education Act of 1965 (20 U.S.C. 1141(p)) is amended by striking "section 101(22) of the National and Community Service Act of 1990" and inserting "section 101(24) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21))".

SEC. 112. AUTHORITY TO MAKE STATE GRANTS.

Section 102 of the National and Community Service Act of 1990 (42 U.S.C. 12512) is repealed.

SEC. 113. FAMILY AND MEDICAL LEAVE.

(a) IN GENERAL.—Section 171 of the National and Community Service Act of 1990 (42 U.S.C. 12631) is amended to read as follows:

"SEC. 171. FAMILY AND MEDICAL LEAVE.

"(a) PARTICIPANTS IN PRIVATE, STATE, AND LOCAL PROJECTS.—For purposes of title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), if—

"(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project; and

"(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5, United States Code),

the participant shall be considered to be an eligible employee of the service sponsor.

"(b) PARTICIPANTS IN FEDERAL PROJECTS.—For purposes of subchapter V of chapter 63 of title 5, United States Code, if—

"(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

"(2) the service sponsor of the project is an employing agency within the meaning of such subchapter,

the participant shall be considered to be an employee of the service sponsor.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 171 of such Act and inserting the following:

"Sec. 171. Family and medical leave.".

SEC. 114. REPORTS.

Section 172 of the National and Community Service Act of 1990 (42 U.S.C. 12632) is amended—

(1) in subsection (a)(3)(A), by striking "sections 177 and 113(9)" and inserting "section 177"; and

(2) in subsection (b)(1), by striking "this title" and inserting "the national service laws".

SEC. 115. NONDISCRIMINATION.

Section 175 of the National and Community Service Act of 1990 (42 U.S.C. 12635) is amended to read as follows:

"SEC. 175. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) BASIS.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

"(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

"(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

"(c) RELIGIOUS DISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this title.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff, of a project that receives assistance under this title, who was employed with the organization operating the project on the date the grant under this title was awarded.

"(d) RULES AND REGULATIONS.—The President shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.".

SEC. 116. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) DECERTIFICATION OF POSITIONS.—Section 176(a) of the National and Community Service Act of 1990 (42 U.S.C. 12636(a)) is amended—

(1) in paragraph (1), by inserting ", or revoke the designation of positions, related to the grant or contract, as approved national service positions," before "whenever the Commission"; and

(2) in paragraph (2)(B), by inserting "or revoked" after "terminated".

(b) CONSTRUCTION.—Section 176(e) of such Act (42 U.S.C. 12636(e)) is amended by adding before the period the following ", other than assistance provided pursuant to this Act".

(c) GRIEVANCE PROCEDURE.—Section 176(f) of such Act is amended to read as follows:

"(f) GRIEVANCE PROCEDURE.—

"(1) IN GENERAL.—A State or local applicant that receives assistance under this title shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

"(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(3) DEADLINE FOR HEARING AND DECISION.—

"(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

"(B) DECISION.—A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

"(4) ARBITRATION.—

"(A) IN GENERAL.—

"(i) JOINTLY SELECTED ARBITRATOR.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) APPOINTED ARBITRATOR.—If the parties cannot agree on an arbitrator, the President shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

"(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the President in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

"(C) DEADLINE FOR DECISION.—A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

"(D) COST.—

"(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(ii) EXCEPTION.—If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State, local agency, public or private not-for-profit organization, or partnership of such agencies and organizations, that is a party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

"(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this title, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

"(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

"(A) suspension of payments for assistance under this title;

"(B) termination of such payments;

"(C) prohibition of the placement described in paragraph (5); and

"(D) in a case in which the grievance involves a violation of subsection (a) or (b) of section 177 and the employer of the displaced employee is the recipient of assistance under this title—

"(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

"(ii) payment of lost wages and benefits of the displaced employee;

"(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

"(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 177 or to make the displaced employee whole.

"(7) ENFORCEMENT.—Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.".

SEC. 117. NONDISPLACEMENT.

Section 177(b)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)(3)) is amended—

(1) in subparagraph (B), to read as follows:

"(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties, or engage in activities, that—

"(i) will supplant the hiring of employed workers; or

"(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures."; and

(2) in subparagraph (C)(iii), to read as follows:

"(iii) employee who—

"(I) is subject to a reduction in force; or

"(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;".

SEC. 118. EVALUATION.

Section 179 of the National and Community Service Act of 1990 (42 U.S.C 12639) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking "for purposes of the reports required by subsection (j)," and inserting "with respect to the programs authorized under subtitle C,"; and

(B) in subparagraph (A), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(2) in subsection (g)—

(A) in the matter preceding paragraph (1), by striking "subtitle D" and inserting "subtitle C"; and

(B) in paragraphs (3) and (9), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(3) by striking subsections (i) and (j); and

(4) by adding at the end the following:

"(i) INDEPENDENT EVALUATION AND REPORT OF DEMOGRAPHICS OF NATIONAL SERVICE PARTICIPANTS AND COMMUNITIES.—

"(1) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under subtitle C.

"(B) PARTICIPANTS.—

"(i) IN GENERAL.—The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

"(ii) CHARACTERISTICS.—The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

"(iii) CATEGORIES.—The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

"(C) COMMUNITIES.—In conducting the evaluation, the entity shall determine the amount of assistance provided under section 121 during the year that has been expended for projects conducted under the programs in areas described in section 133(c)(6).

"(2) REPORT.—The entity conducting the evaluation shall submit a report to the President, Congress, the Corporation, and each State Commission containing the results of the evaluation—

"(A) with respect to the evaluation covering the year beginning on the date of enactment of this subsection, not later than 18 months after such date; and

"(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.".

SEC. 119. ENGAGEMENT OF PARTICIPANTS.

Section 180 of the National and Community Service Act of 1990 (42 U.S.C. 12640) is amended by striking "post-service benefits" and inserting "national service educational awards".

SEC. 120. CONTINGENT EXTENSION.

(a) IN GENERAL.—Section 181 of the National and Community Service Act of 1990 (42 U.S.C. 12641) is amended to read as follows:

"SEC. 181. CONTINGENT EXTENSION.

"Section 414 of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to sections 181 of such Act and inserting the following:

"Sec. 181. Contingent extension.".

SEC. 121. AUDITS.

(a) IN GENERAL.—Section 183 of the National and Community Service Act of 1990 (42 U.S.C. 12643) is amended to read as follows:

"SEC. 183. RIGHTS OF ACCESS, EXAMINATION, AND COPYING.

"(a) COMPTROLLER GENERAL.—The Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private not-for-profit organization receiving assistance directly or indirectly under this Act; and

"(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

"(b) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private not-for-profit organization receiving assistance directly or indirectly under this Act; and

"(2) that relate to the duties of the Chief Financial Officer.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 183 of such Act and inserting the following:

"Sec. 183. Rights of access, examination, and copying.".

SEC. 122. REPEALS.

(a) IN GENERAL.—Subtitle F of title I of the National and Community Service Act of 1990 (42 U.S.C. 12631 et seq.) is amended by repealing sections 185 and 186.

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 185 of such Act.

SEC. 123. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1993.

TITLE II—ORGANIZATION

SEC. 201. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

(a) COMPOSITION AND DUTIES OF STATE COMMISSIONS.—Subtitle F of title I of the National and Community Service Act of 1990 is amended by striking section 178 (42 U.S.C. 12638) and inserting the following new section:

"SEC. 178. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

"(a) EXISTENCE REQUIRED.—

"(1) STATE COMMISSION.—Except as provided in paragraph (2), to be eligible to receive a grant or allotment under subtitle B or C or to receive a distribution of approved national service positions under subtitle C, a State shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

"(2) ALTERNATIVE ADMINISTRATIVE ENTITY.—The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this Act. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission still provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under sections 117B and 130.

"(b) APPOINTMENT AND SIZE.—Except as provided in subsection (c)(3), the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not less than 7 voting members and not more than 25 voting members.

"(c) COMPOSITION AND MEMBERSHIP.—

"(1) REQUIRED MEMBERS.—The State Commission for a State shall include as voting members at least one representative from each of the following categories:

"(A) Individuals between the ages of 16 and 25 who are participants or supervisors in programs.

"(B) National service programs, such as youth corps programs.

"(C) School-based or community-based programs for school-age youth.

"(D) Programs in which older adults are participants.

"(E) Local and State governmental entities in the State, including the State educational agency (from which at least one such member shall be appointed).

"(F) Local labor organizations.

"(2) SOURCES OF OTHER MEMBERS.—The State Commission for a State may include as voting members the following:

"(A) Representatives of community-based organizations or community-based agencies, including community action agencies.

"(B) Members selected from among participants in service programs who are youths.

"(C) Members selected from among local educators.

"(D) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

"(E) Representatives of businesses and business groups.

"(F) Representatives of Indian tribes.

"(G) Representatives of groups serving economically disadvantaged individuals.

"(H) Members selected from among out-of-school youth or other at-risk youth.

"(I) Members selected from among older adults who are volunteers or participants in national service programs.

"(3) CORPORATION REPRESENTATIVE.—The representative of the Corporation designated under section 195(b) for a State shall be an ex officio nonvoting member of the State Commission or alternative administrative entity for that State.

"(4) EX OFFICIO STATE REPRESENTATIVES.—The chief executive officer of a State shall appoint, as an ex officio nonvoting member of the State Commission for the State, the Corporation employee responsible for volunteer service programs in the State, if such employee is not the representative described in paragraph (3). The chief executive officer may appoint, as ex officio nonvoting members of the State Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

"(5) LIMITATION ON NUMBER OF STATE EMPLOYEES AS MEMBERS.—The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

"(d) MISCELLANEOUS MATTERS.—

"(1) MEMBERSHIP BALANCE.—The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

"(2) TERMS.—Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

"(3) VACANCIES.—As vacancies occur on a State Commission, new members shall be appointed by the chief executive of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

"(4) COMPENSATION.—A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

"(5) CHAIRPERSON.—The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

"(e) DUTIES OF A STATE COMMISSION.—The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

"(1) Preparation of a national service plan for the State that may build on any comprehensive State plan submitted pursuant to regulations issued under the National and Community Service Act of 1990, and that—

"(A) covers a 3-year period;

"(B) is updated annually;

"(C) contains such information as the State Commission or alternative administrative entity considers to be appropriate or as the Corporation may require; and

"(D) ensures outreach to diverse community-based agencies that serve underrepresented populations, by—

"(i) using established networks, and registries, at the State level; or

"(ii) establishing such networks and registries.

"(2) Preparation of the applications of the State under sections 117B and 130 for financial assistance, in such a manner as to ensure that any decision regarding whether to include a program in the application shall be made on the basis of the criteria described in section 133(c), applied in a fair and equitable manner by an impartial decisionmaker.

"(3) Assistance in the preparation of the application of the State educational agency for assistance under section 113.

"(4) Preparation of the application of the State under section 130 for the approval of service positions that include the national service educational award described in subtitle D.

"(5) Assistance in the provision of health care and child care benefits under section 140 to participants in national service programs that receive assistance under section 121.

"(6) Development of a State system for the recruitment and placement of participants in national service programs that receive assistance under section 121 and dissemination of information concerning national service programs that receive assistance and approved national service positions.

"(7) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 121, including selection, oversight, and evaluation of grant recipients.

"(8) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 121, for use by programs that request such projects, methods, materials, and activities.

"(f) ACTIVITY INELIGIBLE FOR ASSISTANCE.—A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 121.

"(g) DELEGATION.—Subject to such requirements as the Corporation may prescribe, a State Commission may delegate nonpolicymaking duties to a State agency or public or private not-for-profit organization.

"(h) APPROVAL OF STATE COMMISSION OR ALTERNATIVE.—

"(1) SUBMISSION TO CORPORATION.—The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

"(A) the composition and membership of the State Commission or alternative administrative entity; and

"(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

"(2) APPROVAL OF ALTERNATIVE ADMINISTRATIVE ENTITY.—Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such entity provides for individuals described in subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e).

"(3) REJECTION.—The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for individuals described in subsection (c) to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

"(4) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At the request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

"(5) SUBSEQUENT CHANGES.—This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

"(6) RIGHTS, BENEFITS, AND SUPPORT.—An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission, and shall receive from the Corporation the same benefits and support as the Corporation provides to a State Commission.

"(i) COORDINATION.—

"(1) COORDINATION WITH OTHER STATE AGENCIES.—The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this Act with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

"(2) COORDINATION WITH VOLUNTEER SERVICE PROGRAMS.—

"(A) IN GENERAL.—The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of ACTION, or of the Corporation, that carries out volunteer service programs in the State.

"(B) AGREEMENT.—In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

"(i) carry out such a function jointly;

"(ii) to assign responsibility for such a function to the Commission or entity; or

"(iii) to assign responsibility for such a function to the division.

"(C) INFORMATION.—The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

"(i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and

"(ii) opportunities to coordinate activities.

"(j) LIABILITY.—

"(1) LIABILITY OF STATE.—Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(2) OTHER CLAIMS.—

"(A) IN GENERAL.—A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(B) LIMITATION.—This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;

"(B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or

"(C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 178 and inserting the following new item:

"Sec. 178. State Commissions on National and Community Service.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(d) TRANSITIONAL PROVISIONS.—

(1) USE OF ALTERNATIVES TO STATE COMMISSION.—If a State does not have a State Commission on National and Community Service that satisfies the requirements specified in section 178 of the National and Community Service Act of 1990, as amended by subsection (a), the Corporation for National and Community Service may authorize the chief executive of the State to use an existing agency of the State to perform the duties otherwise reserved to a State Commission under subsection (e) of such section.

(2) APPLICATION OF SUBSECTION.—This subsection shall apply only during the 1-year period beginning on the date of the enactment of this Act.

SEC. 202. INTERIM AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE AND ACTION AGENCY.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subtitle G of title I of the National and Community Service Act of 1990 (42 U.S.C. 12651) is amended to read as follows:

"Subtitle G—Corporation for National and Community Service

"SEC. 191. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"There is established a Corporation for National and Community Service that shall administer the programs established under this Act. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

"SEC. 192. BOARD OF DIRECTORS.

"(a) COMPOSITION.—

"(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the 'Board') that shall be composed of—

"(A) 15 members, including an individual between the ages of 16 and 25 who—

"(i) has served in a school-based or community-based service-learning program; or

"(ii) is a participant or a supervisor in a program,

to be appointed by the President of the United States, by and with the advice and consent of the Senate;

"(B) the President of the Corporation, who shall serve as an ex officio nonvoting member; and

"(C) the ex officio nonvoting members described in paragraph (3).

"(2) QUALIFICATIONS.—To the maximum extent practicable, the President of the United States shall appoint members—

"(A) who have extensive experience in volunteer or service activities, such as—

"(i) activities funded under the national service laws; and

"(ii) Federal financial assistance activities, such as—

"(I) activities under the Head Start Act (42 U.S.C. 9831 et seq.);

"(II) activities under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.); or

"(III) antipoverty activities under other Federal law;

that have a volunteer or service focus;

"(B) who represent a broad range of viewpoints;

"(C) who are experts in the delivery of human, educational, environmental, or public safety services;

"(D) that include at least one representative of local educators and at least one representative of community-based agencies;

"(E) so that the Board shall be diverse with respect to race, ethnicity, age, gender, and disability characteristics; and

"(F) so that no more than 8 appointed members of the Board are from a single political party.

"(3) EX OFFICIO MEMBERS.—The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, and the Administrator of the Environmental Protection Agency shall serve as ex officio nonvoting members of the Board.

"(b) OFFICERS.—

"(1) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall elect a Chairperson and a Vice Chairperson from among its membership.

"(2) OTHER OFFICERS.—The Board may elect from among its membership such additional officers of the Board as the Board determines to be appropriate.

"(c) TERMS.—Each appointed member of the Board shall serve for a term of 3 years, except that 5 of the members first appointed to the Board after the date of enactment of this section shall serve for a term of 1 year and 5 shall serve for a term of 2 years, as designated by the President of the United States.

"(d) VACANCIES.—As vacancies occur on the Board, new members shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

"SEC. 192A. AUTHORITIES AND DUTIES OF THE BOARD OF DIRECTORS.

"(a) MEETINGS.—The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chairperson of the Board, or if 6 members of the Board request such meetings in writing.

"(b) QUORUM.—A majority of the appointed members of the Board shall constitute a quorum.

"(c) AUTHORITIES OF OFFICERS.—

"(1) CHAIRPERSON.—The Chairperson of the Board may call and conduct meetings of the Board.

"(2) VICE CHAIRPERSON.—The Vice Chairperson of the Board may conduct meetings of the Board in the absence of the Chairperson.

"(d) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

"(e) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Board (to whom such provisions would not otherwise apply except for this

subsection) shall be a special Government employee.

"(f) STATUS OF MEMBERS.—

"(1) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Board shall be considered to be a Federal employee.

"(2) OTHER CLAIMS.—A member of the Board shall have no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Board, in connection with any transaction involving the provision of financial assistance by the Corporation. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

"(B) to affect any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a member of the Board participating in such transactions; or

"(C) to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

"(g) DUTIES.—The Board shall—

"(1) review and approve the strategic plan described in section 193A(b)(1), and annual updates of the plan;

"(2) review and approve the proposal described in section 193A(b)(2)(A), with respect to the grants, allotments, contracts, financial assistance, payment, and positions referred to in such section;

"(3) review and approve the proposal described in section 193A(b)(3)(A), regarding the regulations, standards, policies, procedures, programs, and initiatives referred to in such section;

"(4) review and approve the evaluation plan described in section 193A(b)(4)(A);

"(5)(A) review, and advise the President regarding, the actions of the President with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) inform the President of any aspects of the actions of the President that are not in compliance with the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3), or the plan referred to in paragraph (4), or are not consistent with the objectives of this Act;

"(6) receive any report as provided under section 8E (b), (c), or (d) of the Inspector General Act of 1978;

"(7) make recommendations relating to a program of research for the Corporation with respect to national and community service programs, including service-learning programs;

"(8) advise the President of the United States and the Congress concerning developments in national and community service that merit the attention of the President of the United States and the Congress;

"(9) ensure effective dissemination of information regarding the programs and initiatives of the Corporation; and

"(10) prepare and make recommendations to the Congress and the President of the United States for changes in this Act resulting from the studies and demonstrations the President of the Corporation is required to carry out under section 193A(b)(10), which recommendations shall be submitted to the Congress and President of the United States not later than September 30, 1995.

"(h) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

"SEC. 193. PRESIDENT.

"(a) APPOINTMENT.—The Corporation shall be headed by an individual who shall serve as President of the Corporation, and who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

"(b) COMPENSATION.—The President shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) REGULATIONS.—The President shall prescribe such rules and regulations as are necessary or appropriate to carry out this Act.

"SEC. 193A. AUTHORITIES AND DUTIES OF THE PRESIDENT.

"(a) GENERAL POWERS AND DUTIES.—The President shall be responsible for the exercise of the powers and the discharge of the duties of the Corporation that are not reserved to the Board, and shall have authority and control over all personnel of the Corporation, except as provided in section 194(b)(4).

"(b) DUTIES.—In addition to the duties conferred on the President under any other provision of this Act, the President shall—

"(1) prepare and submit to the Board a strategic plan every 3 years, and annual updates of the plan, for the Corporation with respect to the major functions and operations of the Corporation;

"(2)(A) prepare and submit to the Board a proposal with respect to such grants and allotments, contracts, other financial assistance, and designation of positions as approved national service positions, as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(2), make such grants and allotments, enter into such contracts, award such other financial assistance, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments), and designate such positions as approved national service positions as are necessary or appropriate to carry out this Act;

"(3)(A) prepare and submit to the Board a proposal regarding, the regulations established under section 195(a)(4)(B)(i), and such other standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(3)—

"(i) establish such standards, policies, and procedures as are necessary or appropriate to carry out this Act; and

"(ii) establish and administer such programs and initiatives as are necessary or appropriate to carry out this Act;

"(4)(A) prepare and submit to the Board a plan for the evaluation of programs established under this Act, in accordance with section 179; and

"(B) after receiving an approved proposal under section 192A(g)(4)—

"(i) establish measurable performance goals and objectives for such programs, in accordance with section 179; and

"(ii) provide for periodic evaluation of such programs to assess the manner and extent to which the programs achieve the goals and objectives, in accordance with such section;

"(5) consult with appropriate Federal agencies in administering the programs and initiatives;

"(6) suspend or terminate payments and positions described in paragraph (2)(B), in accordance with section 176;

"(7) prepare and submit to the Board an annual report, and such interim reports as may be necessary, describing the major actions of the President with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives;

"(8) inform the Board of, and provide an explanation to the Board regarding, any substantial differences regarding the implementation of this Act between—

"(A) the actions of the President; and

"(B)(i) the strategic plan approved by the Board under section 192A(g)(1);

"(ii) the proposals approved by the Board under paragraph (2) or (3) of section 192A(g); or

"(iii) the evaluation plan approved by the Board under section 192A(g)(4);

"(9) prepare and submit to the appropriate committees of Congress an annual report, and such interim reports as may be necessary, describing—

"(A) the services referred to in paragraph (1), and the money and property referred to in paragraph (2), of section 196(a) that have been accepted by the Corporation;

"(B) the manner in which the Corporation used or disposed of such services, money, and property; and

"(C) information on the results achieved by the programs funded under this Act during the year preceding the year in which the report is prepared; and

"(10) provide for studies and demonstrations that evaluate, and prepare and submit to the Board by June 30, 1995 a report containing recommendations regarding, issues related to—

"(A) the administration and organization of programs authorized under the national service laws or under Public Law 91–378 (referred to in this subparagraph as 'service programs'), including—

"(i) whether the State and national priorities designed to meet the unmet human, education, environmental, or public safety needs described in section 122(c)(1) are being addressed by this Act;

"(ii) the manner in which—

"(I) educational and other outcomes of both stipended and nonstipended service and service-learning are defined and measured in such service programs; and

"(II) such outcomes should be defined and measured in such service programs;

"(iii) whether stipended service programs, and service programs providing educational benefits in return for service, should focus on economically disadvantaged individuals or at-risk youth or whether such programs should include a mix of individuals, including individuals from middle- and upper-income families;

"(iv) the role and importance of stipends and educational benefits in achieving desired outcomes in the service programs;

"(v) the potential for cost savings and coordination of support and oversight services from combining functions performed by ACTION State offices and State Commissions;

"(vi) the implications of the results from such studies and demonstrations for authorized funding levels for the service programs; and

"(vii) other issues that the Director determines to be relevant to the administration and organization of the service programs; and

"(B) the number, potential consolidation, and future organization of national service or domestic volunteer service programs that are authorized under Federal law, including VISTA, service corps assisted under subtitle C and other programs authorized by this Act, programs administered by the Public Health Service, the Department of Defense, or other Federal agencies, programs regarding teacher corps, and programs regarding work-study and higher education loan forgiveness or forbearance programs authorized by the Higher Education Act of 1965 related to community service.

"(c) POWERS.—In addition to the authority conferred on the President under any other provision of this Act, the President may—

"(1) establish, alter, consolidate, or discontinue such organizational units or components within the Corporation as the President considers necessary or appropriate, consistent with Federal law, and shall, to the maximum extent practicable, consolidate such units or components of the division of the Corporation that carries out volunteer service programs and the division of the Corporation that carries out financial assistance programs as may be appropriate to enable the two divisions to coordinate common support functions, such as recruiting, public awareness, or training functions;

"(2) with the approval of the President of the United States, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act;

"(3) with their consent, utilize the services and facilities of Federal agencies with or without reimbursement, and, with the consent of any State, or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

"(4) allocate and expend funds made available under this Act, including expenditure for construction, repairs, and capital improvements;

"(5) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as the President shall determine to be appropriate to public agencies, private organizations, and the general public;

"(6) collect or compromise all obligations to or held by the President and all legal or equitable rights accruing to the President in connection with the payment of obligations in accordance with chapter 37 of title 31, United States Code (commonly known as the 'Federal Claims Collection Act of 1966');

"(7) expend funds made available for purposes of this Act for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the President;

"(8) file a civil action in any court of record of a State having general jurisdiction or in any district court of the United States, with respect to a claim arising under this Act;

"(9) exercise the authorities of the Corporation under section 196;

"(10) consolidate the reports to Congress required under this Act, and the report required under section 9106 of title 31, United States Code, into a single report, and submit the report to Congress on an annual basis; and

"(11) generally perform such functions and take such steps consistent with the objectives and provisions of this Act, as the President determines to be necessary or appropriate to carry out such provisions.

"(d) DELEGATION.—

"(1) DEFINITION.—As used in this subsection, the term 'function' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"(2) IN GENERAL.—Except as otherwise prohibited by law or provided in this Act, the President may delegate any function under this Act, and authorize such successive redelegations of such function as may be necessary or appropriate. No delegation of a function by the President under this subsection or under any other provision of this Act shall relieve such President of responsibility for the administration of such function.

"(3) FUNCTION OF BOARD.—The President may not delegate a function of the Board without the permission of the Board.

"(e) ACTIONS.—In an action described in subsection (c)(8)—

"(1) a district court referred to in such subsection shall have jurisdiction of such a civil action without regard to the amount in controversy;

"(2) such an action brought by the President shall survive notwithstanding any change in the person occupying the office of President or any vacancy in that office;

"(3) no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the President or the Board or property under the control of the President or the Board; and

"(4) nothing in this section shall be construed to except litigation arising out of activities under this Act from the application of sections 509, 517, 547, and 2679 of title 28, United States Code.

"SEC. 194. OFFICERS.

"(a) MANAGING DIRECTORS.—

"(1) IN GENERAL.—There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall report to the President.

"(2) COMPENSATION.—The Managing Directors shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—

"(A) VOLUNTEER SERVICE PROGRAMS.—One of the Managing Directors shall be primarily responsible for the volunteer service programs carried out by the Corporation.

"(B) INVESTMENT PROGRAMS.—The other Managing Director shall be primarily responsible for the financial assistance programs carried out by the Corporation.

"(b) INSPECTOR GENERAL.—

"(1) OFFICE.—There shall be in the Corporation an Office of the Inspector General.

"(2) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978.

"(3) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) CHIEF FINANCIAL OFFICER.—

"(1) OFFICE.—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—The Chief Financial Officer shall—

"(A) report directly to the President regarding financial management matters;

"(B) oversee all financial management activities relating to the programs and operations of the Corporation;

"(C) develop and maintain an integrated accounting and financial management system for the Corporation, including financial reporting and internal controls;

"(D) develop and maintain any joint financial management systems with the Department of Education necessary to carry out the programs of the Corporation; and

"(E) direct, manage, and provide policy guidance and oversight of the financial management personnel, activities, and operations of the Corporation.

"SEC. 195. EMPLOYEES, CONSULTANTS, AND OTHER PERSONNEL.

"(a) EMPLOYEES.—

"(1) IN GENERAL.—Except as provided in section 194(b)(4), it is within the exclusive discretion of the President to appoint and determine the compensation of such employees as the President determines to be necessary to carry out the duties of the Corporation.

"(2) CIVIL SERVICE PROTECTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of title 5, United States Code, shall apply with respect to the Corporation and the employees of the Corporation.

"(B) APPOINTMENT AND COMPENSATION.—Except as provided in section 194(b)(4), it is within the exclusive discretion of the President to appoint and determine the compensation of employees under this subsection without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates (other than the provisions described in clauses (iii) and (iv) of paragraph (4)(B)).

"(3) APPOINTMENT IN THE COMPETITIVE SERVICE AFTER EMPLOYMENT IN THE CORPORATION.—

"(A) EMPLOYEES WITH NOT LESS THAN 3 YEARS OF EMPLOYMENT.—If an employee, other than a representative described in subsection (b), is separated from the Corporation (other than by removal for cause), and has been continuously employed by the Corporation for a period of not less than 3 years, such period shall be treated as a period of service in the competitive service for purposes of chapter 33 of title 5, United States Code.

"(B) EMPLOYEES WITH NOT LESS THAN 1 BUT LESS THAN 3 YEARS OF EMPLOYMENT.—If an employee, other than a representative described in subsection (b), is separated from the Corporation (other than by removal for cause), and has been continuously employed by the Corporation for a period of not less than 1 year, but less than 3 years, such period shall be treated as a period of service in the competitive service for purposes of chapter 33 of title 5, United States Code, until the date that is 3 years after the date of separation.

"(C) DEFINITION.—As used in this paragraph, the term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code.

"(4) APPOINTMENT AND COMPENSATION.—

"(A) IN GENERAL.—The Chairperson shall appoint and determine the compensation of employees referred to in paragraph (1), in accordance with the appointment and compensation systems referred to in subparagraph (B).

"(B) CORPORATION APPOINTMENT AND COMPENSATION SYSTEMS.—

"(i) ESTABLISHMENT OF SYSTEM.—The President, after reviewing the approved proposal of the Board under section 192A(g)(3) and after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing appointment and compensation systems for the Corporation.

"(ii) CONTENT AND CONSIDERATIONS.—In issuing such regulations, the President shall—

"(I) establish appropriate appointment and compensation mechanisms for the representatives described in subsection (b); and

"(II) take into consideration the need for flexibility in such a system.

"(iii) APPOINTMENT SYSTEM.—The appointment system shall require that the appointment of such an employee be—

"(I) on the basis of the qualifications of applicants and the requirements of the position, in accordance with the merit system principles set forth in section 2301(b) of title 5, United States Code; and

"(II) through a competitive process.

"(iv) COMPENSATION SYSTEM.—

"(I) IN GENERAL.—The compensation system shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of such an employee be determined based in part on the job performance of the employee, and in a manner consistent with the principles described in section 5301 of title 5, United States Code.

"(II) LIMITATION ON EMPLOYEE COMPENSATION.—The rate of compensation for each employee compensated through the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(III) LIMITATION ON COMPENSATION OF REPRESENTATIVE.—The rate of pay for a representative described in subsection (b) shall not exceed the maximum rate of basic pay payable for grade GS–13 of the General Schedule under section 5332 of title 5, United States Code.

"(5) RETENTION OF CIVIL SERVICE RIGHTS.—

"(A) RETENTION OF COMPETITIVE SERVICE RIGHTS.—An individual who—

"(i) was an employee of ACTION or the Commission on National and Community Service who served under a permanent appointment on the day before the date of enactment of this subtitle in—

"(I) a position in the competitive service; or

"(II) a career appointee position in the Senior Executive Service;

"(ii) is transferred to the Corporation under section 202(c) or 203(c) of the National and Community Service Trust Act of 1993; and

"(iii) accepts a position established under paragraph (4) in the Corporation,

shall be appointed to a position in the competitive service of the Corporation.

"(B) DURATION OF POSITION IN COMPETITIVE SERVICE.—During the period of employment of such an employee in a position, the position shall be a position in the competitive service. After such period of employment, the position shall be a position in the excepted service unless the President appoints an individual to such position in accordance with the provisions described in subsection (a)(2).

"(C) ESTABLISHMENT OF POSITIONS.—With respect to a position vacancy or a position to be established in the Corporation, the President—

"(i) shall select the individual to be appointed to such position in accordance with the regulations promulgated under paragraph (4);

"(ii) if the individual to be appointed to the position is an individual described in subparagraph (A), shall establish the position as a position in the competitive service; and

"(iii) if the individual to be so appointed is not an individual described in subparagraph (A)—

"(I) may establish the position as a position in the excepted service; and

"(II) in an exceptional case in which the individual, immediately prior to accepting the position, served under a permanent appointment in a position described in subclause (I) or (II) of subparagraph (A)(i), may establish the position as a position in the competitive service,

in any case in which an individual described in subparagraph (A) is an employee of the Corporation and is eligible to be appointed to such position.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) COMPETITIVE SERVICE.—The term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code.

"(ii) EXCEPTED SERVICE.—The term 'excepted service' has the meaning given the term in section 2103 of title 5, United States Code.

"(iii) SENIOR EXECUTIVE SERVICE.—The term 'Senior Executive Service' has the meaning given the term in section 2101a of title 5, United States Code.

"(b) CORPORATION REPRESENTATIVE IN EACH STATE.—

"(1) DESIGNATION OF REPRESENTATIVE.—The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in this Act in the State or States.

"(2) DUTIES.—The representative designated under this subsection for a State or group of States shall serve as the liaison between—

"(A) the Corporation and the State Commission that is established in the State or States;

"(B) the Corporation and any subdivision of a State, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 121 directly from the Corporation; and

"(C) the State Commission and the Corporation employee responsible for volunteer service programs in the State, if the employee is not the representative described in paragraph (1) for the State.

"(3) MEMBER OF STATE COMMISSION.—The representative designated under this subsection for a State or group of States shall also serve as an ex officio nonvoting member of the State Commission established in the State or States.

"(c) CONSULTANTS.—The President may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(d) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the President and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(e) ADVISORY COMMITTEES.—

"(1) ESTABLISHMENT.—The President, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

"(2) COMPOSITION.—Such an advisory committee shall be composed of members appointed by the President, with such qualifications as the President may specify.

"(3) EXPENSES.—Members of such an advisory committee may be allowed travel expenses as described in section 192A(d).

"(4) STAFF.—The President is authorized to appoint and fix the compensation of such staff as the President determines to be necessary to carry out the functions of the advisory committee, in accordance with subsection (a)(2), and without regard to the selection and compensation systems described in subsection (a)(4)(B). Such compensation shall not exceed the rate described in subsection (a)(4)(B)(iv)(III).

"SEC. 196. ADMINISTRATION.

"(a) DONATIONS.—

"(1) SERVICES.—

"(A) VOLUNTEERS.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of individuals to assist the Corporation in carrying out the duties of the Corporation under this Act, and may provide to such individuals the travel expenses described in section 192A(d).

"(B) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

"(i) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee;

"(ii) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply; and

"(iii) for purposes of the provisions of chapter 11 of part I of title 18, United States Code, such a volunteer (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

"(C) INHERENTLY GOVERNMENTAL FUNCTION.—

"(i) IN GENERAL.—Such a volunteer shall not carry out an inherently governmental function.

"(ii) REGULATIONS.—The President shall promulgate regulations to carry out this subparagraph.

"(iii) INHERENTLY GOVERNMENTAL FUNCTION.—As used in this subparagraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

"(2) PROPERTY.—

"(A) IN GENERAL.—The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

"(B) TAX.—For purposes of Federal income, estate, and gift taxes, money or property accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

"(C) RULES.—The President shall establish written rules to ensure that the solicitation, acceptance, holding, administration, and use of property described in subparagraph (A)—

"(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

"(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

"(D) DISPOSITION.—Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

"(3) VOLUNTEER.—As used in this subsection, the term 'volunteer' does not include a participant.

"(b) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under this Act.

"(c) OFFICE OF MANAGEMENT AND BUDGET.—Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.".

(b) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 401 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041) is amended by inserting after the second sentence the following: "The Director shall report directly to the President of the Corporation for National and Community Service.".

(c) TRANSFER OF FUNCTIONS OF COMMISSION ON NATIONAL AND COMMUNITY SERVICE.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context, each term specified in section 203(c)(1) shall have the meaning given the term in such section.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Board of Directors or Executive Director of the Commission on National and Community Service exercised before the effective date of this subsection (including all related functions of any officer or employee of the Commission).

(3) APPLICATION.—The provisions of paragraphs (3) through (10) of section 203(c) shall apply with respect to the transfer described in paragraph (2), except that—

(A) for purposes of such application, references to the term "ACTION Agency" shall be deemed to be references to the Commission on National and Community Service; and

(B) paragraph (10) of such section shall not preclude the transfer of the members of the Board of Directors of the Commission to the Corporation if, on the effective date of this subsection, the Board of Directors of the Corporation has not been confirmed.

(d) CONTINUING PERFORMANCE OF CERTAIN FUNCTIONS.—The individuals who, on the day before the date of enactment of this Act, are performing any of the functions required by section 190 of the National and Community Service Act of 1990 (42 U.S.C. 12651), as in effect on such date, to be performed by the members of the Board of Directors of the Commission on National and Community Service may, subject to section 193A of the National and Community Service Act of 1990, as added by subsection (a) of this section, continue to perform such functions until the date on the Board of Directors of the Corporation for National and Community Service conducts the first meeting of the Board. The service of such individuals as members of the Board of Directors of such Commission, and the employment of such individuals as special government employees, shall terminate on such date.

(e) JOB SEARCH ASSISTANCE.—The President of the Corporation shall establish a program to provide, or shall seek to enter into a memorandum of understanding with the Director of the Office of Personnel Management to provide, job search and related assistance to employees of the ACTION agency who are not transferred to the Corporation for National and Community Service under section 203(c). The President of the Corporation shall make available funds appropriated under section 501(a)(4) of the National and Community Service Act of 1990 in order to provide such assistance.

(f) GOVERNMENT CORPORATION CONTROL.—

(1) WHOLLY OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended by inserting after subparagraph (D) the following:

"(E) the Corporation for National and Community Service.".

(2) AUDITS.—Section 9105(a)(1) of title 31, United States Code, is amended by inserting ", or under other Federal law," before "or by an independent".

(g) DISPOSAL OF PROPERTY.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end the following:

"(5)(A) Under such regulations as the Administrator may prescribe, the Administrator is authorized, in the discretion of the Administrator, to assign to the President of the Corporation for National and Community Service for disposal such surplus property as is recommended by the President as being needed for national service activities.

"(B) Subject to the disapproval o. the Administrator, within 30 days after notice to the Administrator by the President of the Corporation for National and Community Service of a proposed transfer of property for such activities, the President, through such officers or employees of the Corporation as the President may designate, may sell, lease, or donate such property to any entity that receives financial assistance under the National and Community Service Act of 1990 for such activities.

"(C) In fixing the sale or lease value of such property, the President of the Corporation for National and Community Service shall comply with the requirements of paragraph (1)(C).".

(h) INSPECTOR GENERAL.—

(1) SPECIAL PROVISIONS IN INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 8E and 8F as sections 8F and 8G, respectively, and inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

"SEC. 8E. (a) Notwithstanding the provisions of sections 6(a) (7) and (8), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to—

"(1) appoint and determine the compensation of such officers and employees in accordance with section 195(a)(4) of the National and Community Service Trust Act of 1993; and

"(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with section 3109(b) of title 5, United States Code,

as may be necessary to carry out the functions, powers, and duties of the Inspector General.

"(b) No later than the date on which the President of the Corporation for National and Community Service transmits any report to the Congress under section 5 (a) or (b), the President shall transmit such report to the Board of Directors of such Corporation.

"(c) No later than the date on which the President of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the President shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The President of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

"(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the President of the Corporation, the President shall report such problem, abuse, or deficiency to the Board of Directors.".

(2) TERMINATION OF STATUS AS DESIGNATED FEDERAL ENTITY.—

(A) IN GENERAL.—Section 8F(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as redesignated by paragraph (1) of this subsection) is amended by striking out "ACTION,".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(3) TRANSFER.—

(A) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in subparagraph (T), by striking out "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION; and".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(4) HEAD OF ESTABLISHMENT AND ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1) by inserting "; the President of the Corporation for National and Community Service;" after "Thrift Depositor Protection Oversight Board"; and

(B) in paragraph (2) by inserting ", the Corporation for National and Community Service," after "United States Information Agency".

(5) TECHNICAL AND CONFORMING AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in section 4(b)(2)—

(i) by striking out "section 8E(a)(2), and any" and inserting in lieu thereof "section 8F(a)(2), and any";

(ii) by striking out "section 8E(a)(1)" and inserting in lieu thereof "section 8F(a)(1)"; and

(iii) by striking out "section 8E(a)(2)." and inserting in lieu thereof "section 8F(a)(2).";

(B) section 8G (as redesignated by paragraph (1) of this subsection)—

(i) by striking out "or 8D" and inserting in lieu thereof "8D, or 8E"; and

(ii) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)".

(6) POSTAL SERVICE TECHNICAL AND CONFORMING AMENDMENTS.—Section 410(b) of title 39, United States Code, is amended—

(A) in paragraph (8) by striking out "and" after the semicolon;

(B) in the first paragraph (9) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by striking out the second paragraph (9) and inserting in lieu thereof the following:

"(10) the provisions of section 8F of the Inspector General Act of 1978.".

(i) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle G of title I of such Act and inserting the following:

"Subtitle G—Corporation for National and Community Service

"Sec. 191. Corporation for National and Community Service.
"Sec. 192. Board of Directors.
"Sec. 192A. Authorities and duties of the Board of Directors.
"Sec. 193. President.
"Sec. 193A. Authorities and duties of the President.
"Sec. 194. Officers.
"Sec. 195. Employees, consultants, and other personnel.
"Sec. 196. Administration.".

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or subsection (h)(2) or (3), the amendments made by this section shall take effect on October 1, 1993.

(2) ESTABLISHMENT AND APPOINTMENT AUTHORITIES.—Sections 191, 192, and 193 of the National and Community Service Act of 1990, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 203. FINAL AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) APPLICATION.—

(A) EVALUATION.—Subsections (a), (d), and (e) of section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) is amended by striking "this title" and inserting "the national service laws".

(B) CORPORATION.—Subtitle I of the National and Community Service Act of 1990 (as amended by section 202 of this Act) is amended in section 191, section 192A(g)(5), section 193(c), subsections (b) (other than paragraph (10)), (c) (other than paragraph (8)), and (d) of section 193A, subsections (b) and (d) of section 195, and subsections (a) and (b) of section 196, by striking "this Act" each place the term appears and inserting "the national service laws".

(2) GRANTS.—Section 192A(g) of the National and Community Service Act of 1990 (as added by section 202 of this Act) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by redesignating paragraph (9) as paragraph (10); and

(C) by inserting after paragraph (8) the following:

"(9) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under the provisions of the Domestic Volunteer Service Act of 1973 (except as provided in section 108 of the Domestic Volunteer Service Act of 1973), which may provide that the agency or organization shall pay all or a part of the costs of the program; and".

(3) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—Section 193A of the National and Community Service Act of 1993 (as added by section 202 of this Act) is amended by adding at the end the following:

"(f) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—

"(1) EFFORT.—The President shall ensure that the Corporation, in carrying out the recruiting and public awareness functions of the Corporation, shall expend at least the level of effort on recruitment and public awareness activities related to the programs referred to in section 194(a)(3)(A) as ACTION expended on recruitment and public awareness activities related to programs under the Domestic Volunteer Service Act of 1973 during fiscal year 1993.

"(2) PERSONNEL.—The President shall assign or hire, as necessary, such additional national, regional, and State personnel to carry out such recruiting and public awareness functions as may be necessary to ensure that such functions are carried out in a timely and effective manner. The President shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers in the programs referred to in section 194(a)(3)(A), or similar programs, and to individual who have specialized experience in the recruitment of volunteers.

"(3) FUNDS.—For the first fiscal year after the effective date of this subsection, and for each fiscal year thereafter, for the purpose of carrying out such recruiting and public awareness functions, the President shall obligate not less than 1.5 percent of the amounts appropriated for the fiscal year under section 501(a) of the Domestic Volunteer Service Act of 1973.".

(4) ASSISTANT DIRECTORS.—Section 194 of the National and Community Service Act of 1990 (as added by section 202 of this Act) is amended by adding at the end the following:

"(d) ASSISTANT DIRECTORS.—

"(1) IN GENERAL.—There shall be in the Corporation four Assistant Directors, each of whom shall be appointed by the President, and who shall report directly to the Managing Director described in subsection (a)(3)(A).

"(2) DUTIES.—

"(A) VISTA AND OTHER ANTIPOVERTY PROGRAMS.—One of the Assistant Directors shall be primarily responsible for the VISTA and other antipoverty programs under title I of the Domestic Volunteer Service Act of 1973.

"(B) RETIRED AND SENIOR VOLUNTEER PROGRAMS.—One of the Assistant Directors shall be primarily responsible for the Retired and Senior Volunteer Program established under part A of title II of such Act.

"(C) FOSTER GRANDPARENT PROGRAM.—One of the Assistant Directors shall be primarily responsible for the Foster Grandparent Program established under part B of title II of such Act.

"(D) SENIOR COMPANION PROGRAM.—One of the Assistant Directors shall be primarily responsible for the Senior Companion Program established under part C of title II of such Act.".

(b) AUTHORITIES OF ACTION AGENCY.—Sections 401 and 402 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041 and 5042) are repealed.

(c) TRANSFER OF FUNCTIONS FROM ACTION AGENCY.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context—

(A) the term "Corporation" means the Corporation for National and Community Service, established under section 191 of the National and Community Service Act of 1990;

(B) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(C) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(D) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof; and

(E) the term "President", except as used as part of the term "President of the United States", means the President of the Corporation.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation such functions as the President of the United States determines to be appropriate that the Director of the ACTION Agency exercised before the effective date of this subsection (including all related functions of any officer or employee of the ACTION Agency).

(3) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—The President of the United States may delegate to the Director of the Office of Management and Budget the authority to make any determination of the functions that are transferred under paragraph (2), if the President determines that such a delegation would be appropriate.

(4) REORGANIZATION.—The President is authorized to allocate or reallocate any function transferred under paragraph (2) among the officers of the Corporation, after providing notice of the allocation or reallocation to Congress.

(5) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this subsection, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this subsection, subject to section 1531 of title 31, United States Code, shall be transferred to the Corporation. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(6) INCIDENTAL TRANSFER.—The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subsection. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this subsection and for such further measures and dispositions as may be necessary to effectuate the purposes of this subsection.

(7) EFFECT ON PERSONNEL.—

(A) IN GENERAL.—Except as otherwise provided by this subsection, the transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation, or to have the benefits of the employee reduced, for 1 year after the date of transfer of such employee under this subsection.

(B) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this subsection, any person who, on the day preceding the effective date of this subsection, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Corporation to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(C) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President of the United States, by and with the advice and consent of the Senate, the functions of which are transferred by this subsection, shall terminate on the effective date of this subsection.

(8) SAVINGS PROVISIONS.—

(A) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(i) that have been issued, made, granted, or allowed to become effective by the President of the United States, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this subsection; and

(ii) that are in effect at the time this subsection takes effect, or were final before the effective date of this subsection and are to become effective on or after the effective date of this subsection,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the President of the Corporation, or other authorized official, a court of competent jurisdiction, or by operation of law.

(B) PROCEEDINGS NOT AFFECTED.—The provisions of this subsection shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the ACTION Agency at the time this subsection takes effect, with respect to functions transferred by this subsection. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subsection had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subsection had not been enacted.

(C) SUITS NOT AFFECTED.—The provisions of this subsection shall not affect suits commenced before the effective date of this subsection, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

(D) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the ACTION Agency, or by or against any individual in the official capacity of such individual as an officer of the ACTION Agency, shall abate by reason of the enactment of this subsection.

(E) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the ACTION Agency relating to a function transferred under this subsection may be continued by the Corporation with the same effect as if this subsection had not been enacted.

(9) SEVERABILITY.—If a provision of this subsection or its application to any person or circumstance is held invalid, neither the remainder of this subsection nor the application of the provision to other persons or circumstances shall be affected.

(10) TRANSITION.—Prior to, or after, any transfer of a function under this subsection, the President is authorized to utilize—

(A) the services of such officers, employees, and other personnel of the ACTION Agency with respect to functions that will be or have been transferred to the Corporation by this subsection; and

(B) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subsection.

(d) DEVELOPMENT OF TRANSFER SCHEDULE.—The President of the Corporation for National and Community Service, in consultation with the Director of ACTION, shall, not later than 9 months after the date of enactment of this Act, prepare a schedule that specifies the date on which the employees of ACTION will be notified about—

(1) whether their functions will be transferred to the Corporation; and

(2) if such functions will be transferred, the date on which the transfer will occur.

(e) APPOINTMENT OF ACTION EMPLOYEES.—During the period beginning on October 1, 1993 and ending on the effective date of subsection (c)(2), in making appointments to the Corporation under the appointment system described in section 195(a)(4)(B)(iii) of the National and Community Service Act of 1990, the President of the Corporation for National and Community Service shall ensure that individuals who are employees of ACTION shall receive fair and equitable treatment.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section, and the amendments made by this section, shall take effect—

(A) 18 months after the date of enactment of this Act; or

(B) on such earlier date (which shall be not earlier than 12 months after the date of the enactment of this Act) as the President of the United States shall determine to be appropriate and announce by proclamation published in the Federal Register.

(2) TRANSITION.—Subsections (c)(10), (d), and (e) shall take effect on the date of enactment of this Act.

SEC. 204. BUSINESS PLAN.

(a) BUSINESS PLAN REQUIRED.—

(1) IN GENERAL.—The Corporation for National and Community Service (referred to in this section as the "Corporation") shall prepare and submit to Congress a business plan. The Corporation may not provide assistance under section 121 of the National and Community Service Act of 1990 before the twentieth day of continuous session of Congress after the date on which the Corporation submits the business plan to Congress.

(2) COMPUTATION.—For purposes of the computation of the 20-day period referred to in paragraph (1), continuity of a session of the Congress shall be considered to be broken only by—

(A) an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) REQUIRED ELEMENTS OF BUSINESS PLAN.—

(1) ALLOCATION OF FUNDS.—The business plan shall contain—

(A) a description of the manner in which the Corporation will allocate funds for programs carried out by the Corporation after October 1, 1993;

(B) information on the principal offices and officers of the Corporation that will allocate such funds; and

(C) information that indicates how accountability for such funds can be determined, in terms of the office or officer responsible for such funds.

(2) INVESTIGATIVE AND AUDIT FUNCTIONS.—The business plan shall include a description of the plans of the Corporation—

(A) to ensure continuity, during the transition period, and after the transition period, in the investigative and audit functions carried out by the Inspector General of ACTION prior to such period, consistent with the Inspector General Act of 1978 (5 U.S.C. App.); and

(B) to carry out investigative and audit functions and implement financial management controls regarding programs carried out by the Corporation after October 1, 1993,

consistent with the Inspector General Act of 1978, including a specific description of—

(i) the manner in which the Office of Inspector General shall be established in the Corporation, in accordance with section 194(b) of the National Community Service Act of 1990, as added by section 202 of this Act; and

(ii) the manner in which grants made by the Corporation shall be audited by such Office and the financial management controls that shall apply with regard to such grants and programs.

(3) ACCOUNTABILITY MEASURES.—The business plan shall include a detailed description of the accountability measures to be established by the Corporation to ensure effective control of all funds for programs carried out by the Corporation after October 1, 1993.

(4) INFORMATION RESOURCES.—The business plan shall include a description of an information resource management program that will support the program and financial management needs of the Corporation.

(5) CORPORATION STAFFING AND INTEGRATION OF ACTION.—

(A) TRANSFERS.—The business plan shall include a report on the progress and plans of the President for transferring the functions, programs, and related personnel of ACTION to the Corporation, and shall include a timetable for the transfer. Not later than 9 months after the date of enactment of this section, the President shall identify all functions of ACTION to be transferred to the Corporation.

(B) DETAILS AND ASSIGNMENTS.—The report shall specify the number of ACTION employees detailed or assigned to the Corporation, and describe the hiring activity of the Corporation, during the transition period.

(C) STRUCTURE.—The business plan shall include a description of the organizational structure of the Corporation during the transition period.

(D) STAFFING.—The business plan shall include a description of—

(i) measures to ensure adequate staffing during the transition period with respect to programs carried out by the Corporation after October 1, 1993; and

(ii) the responsibilities and authorities of the Managing Directors and other key personnel of the Corporation.

(E) SENIOR EXECUTIVE SERVICE.—The business plan shall include—

(i) an explanation of the number of the employees of the Corporation who will be paid at or above the rate of pay for level 1 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code; and

(ii) information justifying such pay for such employees.

(6) DUPLICATION OF FUNCTIONS.—The business plan shall include a description of the measures that the Corporation is taking or will take to minimize duplication of functions in the Corporation caused by the transfer of the functions of the Commission on National and Community Service, and the transfer of the functions of ACTION, to the Corporation. This description shall address functions at both the national and State levels.

(c) DEFINITION.—The term "transition period" means the period beginning on October 1, 1993 and ending on the day before the effective date of section 203(c)(2).

TITLE III—REAUTHORIZATION

Subtitle A—National and Community Service Act of 1990

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501 of the National and Community Service Act of 1990 (42 U.S.C. 12681) is amended to read as follows:

"SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

"(a) TITLE I.—

"(1) SUBTITLE B.—

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, $45,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year—

"(i) not more than 63.75 percent shall be available to provide financial assistance under subpart A of part I of subtitle B of title I;

"(ii) not more than 11.25 percent shall be available to provide financial assistance under subpart B of part I of such subtitle; and

"(iii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle.

"(2) SUBTITLES C, D, AND H.—

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the President or the Inspector General of the Corporation may determine to be necessary, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and $700,000,000 for fiscal year 1996.

"(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, up to 15 percent shall be made available to provide financial assistance under sections 125 and 126 and under subtitle H of title I.

"(3) SUBTITLE E.—There are authorized to be appropriated to provide financial assistance under subtitle E of title I, such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(4) ADMINISTRATION.—

"(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(B) LIMITATION.—For fiscal year 1994, the sums appropriated under subparagraph (A) shall not exceed 15 percent of the amounts appropriated to carry out subtitles B, C, D, and H of title I of this Act for such fiscal year. For each subsequent fiscal year, the sums appropriated under subparagraph (A) shall not exceed 10 percent of the amounts appropriated to carry out such subtitles for such subsequent fiscal year.

"(C) STATE COMMISSIONS AND CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year, up to 50 percent shall be made available to the State Commissions, and up to 50 percent shall be made available to the Corporation, for the administration of this Act.

"(b) TITLE III.—There are authorized to be appropriated to carry out title III $5,000,000 for each of the fiscal years 1994 through 1996.

"(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

Subtitle B—Domestic Volunteer Service Act of 1973

SEC. 311. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Domestic Volunteer Service Act Amendments of 1993".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

CHAPTER 1—VISTA AND OTHER ANTI-POVERTY PROGRAMS

SEC. 321. PURPOSE OF THE VISTA PROGRAM.

The last sentence of section 101 (42 U.S.C. 4951) is amended to read as follows: "In addition, the objectives of this part are to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose of this part.".

SEC. 322. SELECTION AND ASSIGNMENT OF VISTA VOLUNTEERS.

(a) VOLUNTEER ASSIGNMENTS.—Section 103(a) (42 U.S.C. 4953(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "a public" and inserting "public";

(2) in paragraph (2), by striking "and" at the end;

(3) in paragraph (3), by striking "illiterate or functionally illiterate youth and other individuals,";

(4) in paragraph (5), by striking "and" at the end;

(5) in paragraph (6)—

(A) by striking "the Headstart act, or the Community Economic" and inserting "the Head Start Act, the Community Economic";

(B) by inserting "or other similar Acts," after "1981,"; and

(C) by striking the period and inserting "; and"; and

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

"(7) in strengthening, supplementing, and expanding efforts to address the problem of illiteracy throughout the United States.".

(b) RECRUITMENT PROCEDURES.—Section 103(b) (42 U.S.C. 4953(b)) is amended—

(1) by striking paragraphs (2), (4), (5) and (6);

(2) by redesignating paragraphs (3) and (7) as paragraphs (2) and (3), respectively;

(3) in paragraph (2) (as redesignated in paragraph (2) of this subsection), by striking "paragraph (7)" and inserting "paragraph (3)"; and

(4) in paragraph (3) (as redesignated in paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking "paragraph (4)" and inserting "paragraph (2)";

(B) by striking subparagraphs (B), (C), and (E);

(C) by redesignating subparagraphs (D) and (F) as subparagraphs (C) and (D), respectively; and

(D) by inserting after subparagraph (A) the following new subparagraph:

"(B) A sponsoring organization may recruit volunteers for service under this part, subject to final approval by the Director.".

(c) PUBLIC AWARENESS AND RECRUITMENT.—Subsection (c) of section 103 (42 U.S.C. 4953(c)) is amended—

(1) in paragraph (1), to read as follows:

"(1)(A) The Director shall conduct national and local public awareness and recruitment activities in order to meet the volunteer

goals of the program. In conducting such activities, the Director shall place special emphasis on recruiting volunteers for local, community-based programs that serve underrepresented populations, in situations in which volunteers might not otherwise learn about the programs. Such activities shall be coordinated with recruitment authorized under subtitle C or E of the National and Community Service Act of 1990 and may include public service announcements, advertisements, publicity on loan deferments, repayments, and cancellations available to VISTA volunteers, maintenance of a toll-free telephone system, and provision of technical assistance for the recruitment of volunteers to programs and projects receiving assistance under this part.

"(B) The Director shall take steps to recruit individuals 18 through 27 years of age, 55 years of age and older, recent graduates of institutions of higher education, and special skilled volunteers and to promote diverse participation in the program.";

(2) in paragraph (3), by adding at the end the following new sentence: "In addition, the Director shall take steps to provide opportunities for returned Peace Corps volunteers to serve in the VISTA program.";

(3) by striking paragraphs (4), (5), and (6); and

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

"(4) From the amounts appropriated under section 501(a) for fiscal year 1994 and each subsequent fiscal year, the Director shall obligate such sums as may be necessary for the purpose of carrying out this subsection in such fiscal year.".

(d) COORDINATION WITH OTHER FEDERAL AGENCIES.—Section 103 (42 U.S.C. 4953) is amended by adding at the end the following new subsection:

"(h) The Director is encouraged to enter into agreements with other Federal agencies to use VISTA volunteers in furtherance of program objectives that are consistent with the purposes described in section 101.".

SEC. 323. TERMS AND PERIODS OF SERVICE.

(a) CLARIFICATION AND PERIODS OF SERVICE.—Subsection (b) of section 104 (42 U.S.C. 4954(b)) is amended to read as follows:

"(b)(1) Volunteers serving under this part may be enrolled initially for periods of service of not less than 1 year, nor more than 2 years, except as provided in paragraph (2) or subsection (e).

"(2) Volunteers serving under this part may be enrolled for periods of service of less than 1 year if the Director determines, on an individual basis, that a period of service of less than 1 year is necessary to meet a critical scarce skill need.

"(3) Volunteers serving under this part may be reenrolled for periods of service in a manner to be determined by the Director. No volunteer shall serve for more than a total of 5 years under this part.".

(b) SUMMER PROGRAM.—Section 104 (42 U.S.C. 4954) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this part, the Director may enroll full-time VISTA summer associates in a program for the summer months only, under such terms and conditions as the Director shall determine to be appropriate. Such individuals shall be assigned to projects that meet the criteria set forth in section 103(a).

"(2) In preparing reports relating to programs under this Act, the Director shall report on participants, costs, and accomplishments under the summer program separately.

"(3) The limitation on funds appropriated for grants and contracts, as contained in section 108, shall not apply to the summer program.".

SEC. 324. SUPPORT FOR VISTA VOLUNTEERS.

(a) POSTSERVICE STIPEND.—Section 105(a)(1) (42 U.S.C. 4955(a)(1)) is amended—

(1) by inserting "(A)" after "(a)(1)"; and

(2) by striking the second sentence and inserting the following:

"(B) Such stipend shall not exceed $95 per month in fiscal year 1994, but shall be set at a minimum of $125 per month during the service of the volunteer after October 1, 1994, assuming the availability of funds to accomplish this increase.

"(C) The Director shall not provide a stipend under this subsection to an individual who elects to receive a national service education award under subtitle D of title I of the National and Community Service Act of 1990.".

(b) SUBSISTENCE ALLOWANCE.—Section 105(b) (42 U.S.C. 4955(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A);

(B) in subparagraph (B), by striking the subparagraph designation; and

(C) by adding at the end the following new sentence: "The Director shall review such adjustments on an annual basis to ensure that the adjustments are current."; and

(2) by striking paragraph (4).

(c) CHILD CARE.—Section 105 (42 U.S.C. 4955) is amended by adding at the end the following:

"(c)(1) The Director shall—

"(A) make child care available for children of each volunteer enrolled under this part who need such child care in order to participate as volunteers; or

"(B) provide a child care allowance to each such volunteer who needs such assistance in order to participate as volunteers.

"(2) The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any child care allowance to be provided.".

SEC. 325. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

Section 107 (42 U.S.C. 4957) is amended to read as follows:

"SEC. 107. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

"In carrying out this part and part C, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of individuals 18 through 27 years of age, and individuals 55 years of age and older, in the various programs and activities authorized under such parts.".

SEC. 326. LITERACY ACTIVITIES.

Section 109 (42 U.S.C. 4959) is amended—

(1) in subsection (g)—

(A) by striking paragraph (1); and

(B) by striking the paragraph designation of paragraph (2); and

(2) in subsection (h), by striking paragraph (3).

SEC. 327. APPLICATIONS FOR ASSISTANCE.

Section 110 (42 U.S.C. 4960) is amended to read as follows:

"SEC. 110. APPLICATIONS FOR ASSISTANCE.

"In reviewing an application for assistance under this part, the Director shall not deny such assistance to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has received under this part prior to the date of submission of the application. The Director shall grant assistance under this part on the basis of merit and to accomplish the goals of the VISTA program, and shall consider the needs and requirements of projects in existence on such date as well as potential new projects.".

SEC. 328. REPEAL OF AUTHORITY FOR STUDENT COMMUNITY SERVICE PROGRAMS.

Section 114 (42 U.S.C. 4974) is repealed.

SEC. 329. UNIVERSITY YEAR FOR VISTA.

(a) PROGRAM TITLE.—Part B of title I (42 U.S.C. 4971 et seq.) is amended—

(1) in the part heading, to read as follows:

"PART B—UNIVERSITY YEAR FOR VISTA";

(2) by striking "University Year for ACTION" each place that such term appears in such part and inserting "University Year for VISTA";

(3) by striking "UYA" each place that such term appears in such part and inserting "UYV"; and

(4) in section 112 (42 U.S.C. 4972) by striking the section heading and inserting the following new section heading:

"AUTHORITY TO OPERATE UNIVERSITY YEAR FOR VISTA PROGRAM".

(b) SPECIAL CONDITIONS.—Section 113(a) (42 U.S.C. 4973(a)) is amended—

(1) by striking "of not less than the duration of an academic year" and inserting "of not less than the duration of an academic semester or its equivalent"; and

(2) by adding at the end the following new sentence: "Volunteers may receive a living allowance and such other support or allowances as the Director determines to be appropriate.".

SEC. 330. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

Section 122 (42 U.S.C. 4992) is amended to read as follows:

"SEC. 122. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

"(a) IN GENERAL.—The Director is authorized to conduct special volunteer programs for demonstration programs, or award grants to or enter into contracts with public or nonprofit organizations to carry out such programs. Such programs shall encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and identify particular segments of the poverty community that could benefit from volunteer and other antipoverty efforts.

"(b) ASSIGNMENT AND SUPPORT OF VOLUNTEERS.—The assignment of volunteers under this section, and the provision of support for such volunteers, including any subsistence allowances and stipends, shall be on such terms and conditions as the Director shall determine to be appropriate, but shall not exceed the level of support provided under section 105. Projects using volunteers who do not receive stipends may also be supported under this section.

"(c) CRITERIA AND PRIORITIES.—In carrying out this section and section 123, the Director shall establish criteria and priorities for awarding grants and entering into contracts under this part in each fiscal year. No grant or contract exceeding $100,000 shall be made under this part unless the recipient of the grant or contractor has been selected by a competitive process that includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.".

SEC. 331. TECHNICAL AND FINANCIAL ASSISTANCE.

Section 123 (42 U.S.C. 4993) is amended to read as follows:

"SEC. 123. TECHNICAL AND FINANCIAL ASSISTANCE.

"The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, private nonprofit organizations, employers, and other private organizations that utilize or desire to utilize volunteers in carrying out the purpose of this part.".

SEC. 332. ELIMINATION OF SEPARATE AUTHORITY FOR DRUG ABUSE PROGRAMS.

Title I (42 U.S.C. 4951 et seq.) is amended—

(1) by repealing section 124; and

(2) by redesignating section 125 as section 124.

CHAPTER 2—NATIONAL SENIOR VOLUNTEER CORPS

SEC. 341. NATIONAL SENIOR VOLUNTEER CORPS.

(a) TITLE HEADING.—The heading for title II is amended to read as follows:

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS"

(b) REFERENCES.—

(1) Section 200(1) (42 U.S.C. 5000(1)) is amended by striking "Older American Volunteer Programs" and inserting "National Senior Volunteer Corps".

(2) The heading for section 221 (42 U.S.C. 5021) is amended by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS".

(3) Section 224 (42 U.S.C. 5024) is amended—

(A) in the section heading by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS"; and

(B) by striking "volunteer projects for older Americans" and inserting "National Senior Volunteer Corps projects".

(4) Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94–135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended by striking "national older American volunteer programs" each place the term appears and inserting "National Senior Volunteer Corps programs".

SEC. 342. THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

(a) PART HEADING.—The heading for part A of title II is amended by striking "RETIRED SENIOR VOLUNTEER PROGRAM" and inserting "RETIRED AND SENIOR VOLUNTEER PROGRAM".

(b) REFERENCES.—Section 200 (42 U.S.C. 5000) is amended by striking "retired senior volunteer program" each place that such term appears in such section and inserting "Retired and Senior Volunteer Program".

SEC. 343. OPERATION OF THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

(a) ELIGIBILITY FOR PARTICIPANTS IN THE PROGRAM.—Section 201(a) (42 U.S.C. 5001(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "and older working persons" after "retired persons"; and

(2) in paragraph (2), by striking "aged sixty" and inserting "age 55".

(b) DELETION OF REQUIREMENT FOR STATE AGENCY REVIEW.—Section 201 (42 U.S.C. 5001) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 344. SERVICES UNDER THE FOSTER GRANDPARENT PROGRAM.

Section 211(a) (42 U.S.C. 5011(a)) is amended by striking ", including services" and all that follows through "with special needs." and inserting a period and the following: "Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site.".

SEC. 345. STIPENDS FOR LOW-INCOME VOLUNTEERS.

The second sentence of section 211(d) (42 U.S.C. 5011(d)) is amended by striking "Any stipend or allowance provided under this subsection shall not be less than $2.20 per hour until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992," and inserting "Any stipend or allowance provided under this section shall not be less than $2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents,".

SEC. 346. PARTICIPATION OF NON-LOW-INCOME PERSONS UNDER PARTS B AND C.

Subsection (f) of section 211(f) (42 U.S.C. 5011(f)) is amended to read as follows:

"(f) Individuals who are not low-income persons may serve as volunteers under parts B and C, in accordance with such regulations as the Director shall issue, at the discretion of the local project. Such individuals shall not receive any allowance, stipend, or other financial support for such service except reimbursement for transportation, meals, and out-of-pocket expenses related to such service.".

SEC. 347. CONDITIONS OF GRANTS AND CONTRACTS.

Section 212 (42 U.S.C. 5012) is repealed.

SEC. 348. EVALUATION OF THE SENIOR COMPANION PROGRAM.

Section 213(c) (42 U.S.C. 5013(c)) is amended by striking paragraph (3).

SEC. 349. AGREEMENTS WITH OTHER FEDERAL AGENCIES.

Section 221(a) (42 U.S.C. 5021(a)) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following:

"(2) The Director is encouraged to enter into agreements with—

"(A) the Department of Health and Human Services to—

"(i) involve retired or senior volunteers and foster grandparents in Head Start projects; and

"(ii) promote in-home care in cooperation with the Administration on Aging;

"(B) the Department of Education to promote intergenerational tutoring and mentoring for at-risk children; and

"(C) the Environmental Protection Agency to support conservation efforts.".

SEC. 350. PROGRAMS OF NATIONAL SIGNIFICANCE.

Section 225 (42 U.S.C. 5025) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) The Director is authorized to make grants under parts A, B, and C to support programs that address national problems that are also of local concern. The Director may, in any fiscal year, determine which programs of national significance will receive priority in that year. In determining the priority of programs to address problems of local concern in a particular area, the Director shall solicit and consider the views of representatives of local groups serving the area.";

(B) in paragraph (2)(B), by striking "paragraph (10)" and inserting "paragraphs (10) and (12)"; and

(C) in paragraph (2)(C), by striking "and (10)" and inserting "(10), (12), (15), and (16)";

(2) in subsection (b), by adding at the end the following new paragraphs:

"(12) Programs that address environmental needs.

"(13) Programs that reach out to organizations not previously involved in addressing local needs, such as labor unions and profit-making organizations.

"(14) Programs that provide for ethnic outreach.

"(15) Programs that support criminal justice activities.

"(16) Programs that involve older volunteers working with young people in apprenticeship programs.

"(17) Programs that support the integration of individuals with disabilities into the community."; and

(3) in subsection (d), by striking paragraph (1) and inserting the following new paragraph:

"(1) Except as provided in paragraph (2), from the amounts appropriated under subsection (a), (b), (c), or (d) of section 502, for each fiscal year there shall be available to the Director such sums as may be necessary to make grants under subsection (a).".

SEC. 351. ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE.

Section 226 (42 U.S.C. 5026) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraph (B); and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(1)"; and

(ii) by striking "annually" and inserting ", once every 2 years"; and

(B) by striking paragraph (2).

SEC. 352. DEMONSTRATION PROGRAMS.

Title II (42 U.S.C. 5000 et seq.) is amended by adding at the end the following new part:

"PART E—DEMONSTRATION PROGRAMS

"SEC. 231. AUTHORITY OF DIRECTOR.

"(a) IN GENERAL.—The Director is authorized to make grants to or enter into contracts with public or nonprofit organizations, including organizations funded under part A, B, or C, for the purposes of demonstrating innovative activities involving older Americans as volunteers. The Director may support under this part both volunteers receiving stipends and volunteers not receiving stipends.

"(b) ACTIVITIES.—An organization that receives a grant or enters into a contract under subsection (a) may use funds made available through the grant or contract for activities such as—

"(1) linking youth groups and older American organizations in volunteer activities;

"(2) involving older volunteers in programs and activities different from programs and activities supported in the community; and

"(3) testing whether older American volunteer programs may contribute to new objectives or certain national priorities.

"SEC. 232. PROHIBITION.

"The Director may not reduce the activities, projects, or volunteers funded under the other parts of this title in order to support projects under this part.".

CHAPTER 3—ADMINISTRATION

SEC. 361. PURPOSE OF AGENCY.

Section 401 (42 U.S.C. 5041) is amended—

(1) by inserting after the first sentence the following: "Such Agency shall also promote the coordination of volunteer efforts among Federal, State, and local agencies and organizations, exchange technical assistance information among such agencies and organizations."; and

(2) by striking "Older American Volunteer Programs" each place the term appears and inserting "National Senior Volunteer Corps".

SEC. 362. AUTHORITY OF THE DIRECTOR.

Section 402 (42 U.S.C. 5042) is amended in paragraphs (5) and (6) by inserting "solicit and" before "accept" each place the term appears.

SEC. 363. COMPENSATION FOR VOLUNTEERS.

Section 404 (42 U.S.C. 5044) is amended—

(1) in subsection (c), by inserting "from such volunteers or from beneficiaries" after "compensation";

(2) by striking subsection (f); and

(3) by redesignating subsection (g) as subsection (f).

SEC. 364. REPEAL OF REPORT.

Section 407 (42 U.S.C. 5047) is repealed.

SEC. 365. APPLICATION OF FEDERAL LAW.

Section 415(b)(4)(A) (42 U.S.C. 5055(b)(4)(A)) is amended by striking "a grade GS-7 employee" and inserting "an employee at grade GS-5 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 366. EVALUATION OF PROGRAMS.

Section 416 (42 U.S.C. 5056) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "(including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years)"; and

(B) in the second sentence, by striking "at least once every 3 years" and inserting "periodically";

(2) in subsection (b) to read as follows:

"(b) In carrying out evaluations of programs under this Act, the Director shall create appropriate management information systems that will summarize information on volunteer activities and accomplishments across the programs supported under this Act. The Director shall periodically prepare and submit to the appropriate committees of Congress a report containing such information."; and

(3) by striking subsections (d), (e), (f), and (g).

SEC. 367. NONDISCRIMINATION PROVISIONS.

Section 417 (42 U.S.C. 5057) is amended to read as follows:

"SEC. 417. NONDISCRIMINATION PROVISIONS.

"(a) IN GENERAL.—

"(1) BASIS.—An individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

"(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

"(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(c) RELIGIOUS DISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate on the basis of religion against a participant in such program or a member of the staff of such program who is paid with funds received under this Act.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this Act, of any member of the staff, of a program that receives assistance under this Act, who was employed with the organization operating the program on the date the grant under this Act was awarded.

"(d) RULES AND REGULATIONS.—The Director shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.".

SEC. 368. ELIMINATION OF SEPARATE REQUIREMENTS FOR SETTING REGULATIONS.

Section 420 (42 U.S.C. 5060) is repealed.

SEC. 369. CLARIFICATION OF ROLE OF INSPECTOR GENERAL.

Section 422 (42 U.S.C. 5062) is amended—

(1) in subsection (a), by inserting "or the Inspector General" after "Director"; and

(2) in subsection (b), by inserting ", the Inspector General," after "Director" each place that such term appears.

SEC. 370. COPYRIGHT PROTECTION.

Title IV (42 U.S.C. 5041 et seq.) is amended by adding at the end the following new section:

"SEC. 425. PROTECTION AGAINST IMPROPER USE.

"Whoever falsely—

"(1) advertises or represents; or

"(2) publishes or displays any sign, symbol, or advertisement, reasonably calculated to convey the impression,

that an entity is affiliated with, funded by, or operating under the authority of ACTION, VISTA, or any of the programs of the National Senior Volunteer Corps may be enjoined under an action filed by the Attorney General, on a complaint by the Director.".

SEC. 371. CENTER FOR RESEARCH AND TRAINING.

Title IV (42 U.S.C. 5041 et seq.) (as amended by section 370 of this Act) is further amended by adding at the end the following new section:

"SEC. 426. CENTER FOR RESEARCH AND TRAINING.

"The Director may establish, directly or by grant or contract, a Center for Research and Training on Volunteerism to carry out research concerning the impact of volunteerism on individuals, organizations, and communities, provide training at a State, regional, or local level to help improve programs across the United States, and carry out such other functions as the Director determines to be appropriate.".

SEC. 372. DEPOSIT REQUIREMENT CREDIT FOR SERVICE AS A VOLUNTEER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8332(j) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) in the first sentence, by inserting "the period of an individual's services as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964,";

(ii) in the second sentence, by inserting ", as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964,"; and

(iii) in the last sentence—

(I) by inserting "or under the Domestic Volunteer Service Act of 1973" after "Economic Opportunity Act of 1964"; and

(II) by inserting "or the Director of ACTION, as appropriate," after "Director of the Office of Economic Opportunity"; and

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

"(3) The provisions of paragraph (1) relating to credit for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964 or the Domestic Volunteer Service Act of 1973 shall not apply to any period of service as a volunteer or volunteer leader of an employee or Member with respect to which the employee or Member has made the deposit with interest, if any, required by section 8334(l).".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

(A) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(l)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, before the date of the separation from service on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Act of 1964 or title I of the Domestic Volunteer Service Act of 1973 for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) the date of enactment of this subsection; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount, computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit

in the Treasury of the United States to the credit of the Fund.

"(4) The Director shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(B) CONFORMING AMENDMENT.—Section 8334(e) of title 5, United States Code, is amended in paragraphs (1) and (2) by striking "or (k)" each place that such term appears and inserting "(k), or (l)".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended—

(A) in subsection (b)(3), by striking "subsection (f)" and inserting "subsection (f) or (h)"; and

(B) by adding at the end the following new subsection:

"(h) An employee or Member shall be allowed credit for service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, performed at any time prior to the separation from service on which the entitlement to any annuity under this subchapter is based if the employee or Member has made a deposit with interest, if any, with respect to such service under section 8422(f).".

(2) DEDUCTIONS, CONTRIBUTIONS.—Section 8422 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, before the date of the separation from service on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or title I of the Domestic Volunteer Service Act of 1973 for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) the date of enactment of this subsection, or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Director shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(c) APPLICABILITY AND OTHER PROVISIONS.—

(1) APPLICABILITY.—

(A) TIMING.—The amendments made by subsections (a) and (b) shall apply with respect to credit for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964 or the Domestic Volunteer Service Act of 1973 to individuals who are entitled to an annuity on the basis of a separation from service occurring before, on, or after the effective date of this subtitle.

(B) SEPARATION.—In the case of any individual whose entitlement to an annuity is based on a separation from service occurring before the date of enactment of this Act, any increase in such individual's annuity on the basis of a deposit made pursuant to section 8334(l) or section 8442(f) of title 5, United States Code, as amended by this Act, shall be effective only with respect to annuity payments payable for calendar months beginning after the date of enactment of this Act.

(2) ACTION TO INFORM INDIVIDUALS.—The Director of the Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to credit under this section for service as a volunteer or volunteer leader, or to have any annuity recomputed, or to make a deposit under this section, of such entitlement.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS AND OTHER AMENDMENTS

SEC. 381. AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.

Section 501 (42 U.S.C. 5081) is amended to read as follows:

"SEC. 501. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.

"(a) AUTHORIZATIONS.—

"(1) VOLUNTEERS IN SERVICE TO AMERICA.—There are authorized to be appropriated to carry out part A of title I, excluding sections 104(e) and 109, $45,800,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(2) SUMMER PROGRAM.—There are authorized to be appropriated to carry out section 104(e), such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(3) LITERACY ACTIVITIES.—There are authorized to be appropriated to carry out section 109, $5,600,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(4) UNIVERSITY YEAR FOR VISTA.—There are authorized to be appropriated to carry out part B of title I, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(5) SPECIAL VOLUNTEER PROGRAMS.—There are authorized to be appropriated to carry out part C of title I, excluding section 124, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(6) LITERACY CHALLENGE GRANTS.—There are authorized to be appropriated to carry out section 124, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(b) SUBSISTENCE.—The minimum level of an allowance for subsistence required under section 105(b)(2), to be provided to each volunteer under title I, may not be reduced or limited in order to provide for an increase in the number of volunteer service years under part A of title I.

"(c) LIMITATION.—No part of the funds appropriated to carry out part A of title I may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the antipoverty criteria of part A of title I.

"(d) AVAILABILITY.—Amounts appropriated for part A of title I shall remain available for obligation until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

"(e) VOLUNTEER SERVICE REQUIREMENT.—

"(1) VOLUNTEER SERVICE YEARS.—Of the amounts appropriated under this section for parts A, B, and C of title I, including section 124, there shall first be available for part A of title I, including sections 104(e) and 109, an amount not less than the amount necessary to provide 3,700 volunteer service years in fiscal year 1994, 4,000 volunteer service years in fiscal year 1995, and 4,500 volunteer service years in fiscal year 1996.

"(2) PLAN.—If the Director determines that funds appropriated to carry out part A, B, or C of title I are insufficient to provide for the years of volunteer service required by paragraph (1), the Director shall submit a plan to the relevant authorizing and appropriations committees of Congress that will detail what is necessary to fully meet this requirement.".

SEC. 382. AUTHORIZATION OF APPROPRIATIONS FOR TITLE II.

Section 502 (42 U.S.C. 5082) is amended to read as follows:

"SEC. 502. NATIONAL SENIOR VOLUNTEER CORPS.

"(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appropriated to carry out part A of title II, $37,054,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II, $71,284,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II, $32,509,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II, such sums as may be necessary for each of the fiscal years 1994 through 1996.".

SEC. 383. AUTHORIZATION OF APPROPRIATIONS FOR TITLE IV.

Title V (42 U.S.C. 5081 et seq.) is amended—

(1) by striking section 504;

(2) by inserting the following after section 502:

"SEC. 503. ADMINISTRATION AND COORDINATION.

"(a) IN GENERAL.—For each of the fiscal years 1994 through 1998, there are authorized to be appropriated for the administration of this Act as provided for in title IV, 15 percent of the total amount appropriated under sections 501 and 502 with respect to such year.

"(b) EVALUATION AND CENTER FOR RESEARCH AND TRAINING.—For each of the fiscal years 1994 through 1998, the Director is authorized to expend not less than one-half of 1 percent, and not more than 1 percent, from the amounts appropriated under sections 501 and 502, for the purposes prescribed in sections 416 and 426."; and

(3) by redesignating section 505 as section 504.

SEC. 384. CONFORMING AMENDMENTS; COMPENSATION FOR VISTA FECA CLAIMANTS.

Section 8143(b) of title 5, United States Code, is amended by striking "GS-7" and inserting "GS-5 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 385. REPEAL OF AUTHORITY.

Title VII (42 U.S.C. 5091 et seq.) is repealed.

CHAPTER 5—GENERAL PROVISIONS

SEC. 391. TECHNICAL AND CONFORMING AMENDMENTS.

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) is amended by striking "That this Act" and all that follows through the end of the table of contents and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Domestic Volunteer Service Act of 1973'.

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

"Sec. 1. Short title; table of contents.
"Sec. 2. Volunteerism policy.

"TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

"PART A—VOLUNTEERS IN SERVICE TO AMERICA

"Sec. 101. Statement of purpose.
"Sec. 102. Authority to operate VISTA program.
"Sec. 103. Selection and assignment of volunteers.
"Sec. 104. Terms and periods of service.
"Sec. 105. Support service.
"Sec. 106. Participation of beneficiaries.
"Sec. 107. Participation of younger and older persons.
"Sec. 108. Limitation.
"Sec. 109. VISTA Literacy Corps.
"Sec. 110. Applications for assistance.

"PART B—UNIVERSITY YEAR FOR VISTA

"Sec. 111. Statement of purpose.
"Sec. 112. Authority to operate University Year for VISTA program.
"Sec. 113. Special conditions.

"PART C—SPECIAL VOLUNTEER PROGRAMS

"Sec. 121. Statement of purpose.
"Sec. 122. Authority to establish and operate special volunteer and demonstration programs.
"Sec. 123. Technical and financial assistance.
"Sec. 124. Literacy challenge grants.

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS

"Sec. 200. Statement of purposes.

"PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

"Sec. 201. Grants and contracts for volunteer service projects.

"PART B—FOSTER GRANDPARENT PROGRAM

"Sec. 211. Grants and contracts for volunteer service projects.

"PART C—SENIOR COMPANION PROGRAM

"Sec. 213. Grants and contracts for volunteer service projects.

"PART D—GENERAL PROVISIONS

"Sec. 221. Promotion of National Senior Volunteer Corps.
"Sec. 222. Payments.
"Sec. 223. Minority group participation.
"Sec. 224. Use of locally generated contributions in National Senior Volunteer Corps.
"Sec. 225. Programs of national significance.
"Sec. 226. Adjustments to Federal financial assistance.
"Sec. 227. Multiyear grants or contracts.

"PART E—DEMONSTRATION PROGRAMS

"Sec. 231. Authority of Director.
"Sec. 232. Prohibition.

"TITLE IV—ADMINISTRATION AND COORDINATION

"Sec. 403. Political activities.
"Sec. 404. Special limitations.
"Sec. 406. Labor standards.
"Sec. 408. Joint funding.
"Sec. 409. Prohibition of Federal control.
"Sec. 410. Coordination with other programs.
"Sec. 411. Prohibition.
"Sec. 412. Notice and hearing procedures for suspension and termination of financial assistance.
"Sec. 414. Distribution of benefits between rural and urban areas.
"Sec. 415. Application of Federal law.
"Sec. 416. Evaluation.
"Sec. 417. Nondiscrimination provisions.
"Sec. 418. Eligibility for other benefits.
"Sec. 419. Legal expenses.
"Sec. 421. Definitions.
"Sec. 422. Audit.
"Sec. 423. Reduction of paperwork.
"Sec. 424. Review of project renewals.
"Sec. 425. Protection against improper use.
"Sec. 426. Center for Research and Training.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. National volunteer antipoverty programs.
"Sec. 502. National Senior Volunteer Corps.
"Sec. 503. Administration and coordination.
"Sec. 504. Availability of appropriations.

"TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

"Sec. 601. Supersedence of Reorganization Plan No. 1 of July 1, 1971.
"Sec. 602. Creditable service for civil service retirement.
"Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
"Sec. 604. Repeal of title VI of the Older Americans Act.".

SEC. 392. EFFECTIVE DATE.

This subtitle, and the amendments made by this subtitle shall take effect on October 1, 1993.

Subtitle C—Youth Conservation Corps Act of 1970

SEC. 399. PUBLIC LANDS CORPS.

(a) IN GENERAL.—Public Law 91-378 (16 U.S.C. 1701-1706; commonly known as the "Youth Conservation Corps Act of 1970") is amended—

(1) by inserting before section 1 the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) by striking "Act" each place such term appears and inserting "title";

(3) by redesignating sections 1 through 6 as sections 101 through 106, respectively;

(4) in subsection (a) of section 102 (as redesignated by paragraph (3)), by inserting "in this title" after "hereinafter";

(5) in subsection (d) of section 104 (as redesignated by paragraph (3)), by striking "section 6" and inserting "section 106"; and

(6) by adding at the end the following new title:

"TITLE II—PUBLIC LANDS CORPS

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Public Lands Corps Act of 1993'.

"SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women in a Public Lands Corps can benefit those men and women by providing such men and women with education and work opportunities, furthering their understanding and appreciation of the natural and cultural resources, and providing a means to pay for higher education or to repay indebtedness such men and women have incurred to obtain higher education while at the same time benefiting the Nation's economy and environment.

"(2) Many facilities and natural resources located on public lands and on Indian lands are in disrepair or degraded and in need of labor intensive rehabilitation, restoration, and enhancement work that cannot be carried out by Federal agencies at existing personnel levels.

"(3) Youth conservation corps have established a good record of restoring and maintaining these kinds of facilities and resources in a cost-effective and efficient manner, especially when the corps have worked in partnership arrangements with government land management agencies.

"(b) PURPOSE.—It is the purpose of this title to—

"(1) perform, in a cost-effective manner, appropriate conservation projects on public lands and Indian lands where such projects will not be performed by existing employees;

"(2) assist governments and Indian tribes in performing research and public education tasks associated with natural and cultural resources on public lands and Indian lands;

"(3) expose young men and women to public service while furthering their understanding and appreciation of the Nation's natural and cultural resources;

"(4) expand educational opportunities by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training; and

"(5) stimulate interest among the Nation's young men and women in conservation careers by exposing such men and women to conservation professionals in land managing agencies.

"SEC. 203. DEFINITIONS.

"For purposes of this title:

"(1) APPROPRIATE CONSERVATION PROJECT.—The term 'appropriate conservation project' means any project for the conservation, restoration, construction, or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

"(2) CORPS AND PUBLIC LANDS CORPS.—The terms 'Corps' and 'Public Lands Corps' mean the Public Lands Corps established under section 204.

"(3) INDIAN.—The term 'Indian' means a person who is a member of an Indian tribe, or is a 'Native', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(4) INDIAN LANDS.—The term 'Indian lands' means—

"(A) any Indian reservation;

"(B) any public domain Indian allotments;

"(C) any former Indian reservation in the State of Oklahoma;

"(D) any land held by incorporated Native groups, regional corporations, and village corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) any land held by dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

"(5) INDIAN TRIBE.—The term 'Indian tribe' means—

"(A) an Indian tribe, band, nation, or other organized group or community, including—

"(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act'; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

"(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)),

that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

"(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

"(6) PUBLIC LANDS.—The term 'public lands' means any lands or waters (or interest therein) owned or administered by the United States, except that such term does not include any Indian lands.

"(7) QUALIFIED YOUTH OR CONSERVATION CORPS.—The term 'qualified youth or conservation corps' means any program established by a State or local government, by the governing body of any Indian tribe, or by a nonprofit organization, that—

"(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in a natural or cultural resource setting;

"(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

"(C) provides participants with the opportunity to develop citizenship values and skills through service to their community and the United States.

"(8) RESOURCE ASSISTANT.—The term 'resource assistant' means a resource assistant selected under section 206.

"(9) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"SEC. 204. PUBLIC LANDS CORPS PROGRAM.

"(a) ESTABLISHMENT OF PUBLIC LANDS CORPS.—There is hereby established in the Department of the Interior and the Department of Agriculture a Public Lands Corps.

"(b) PARTICIPANTS.—The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary of the Interior or the Secretary of Agriculture. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 137(b) of the National and Community Service Act of 1990. The Secretaries may enroll such individuals in the Corps without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Secretaries may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

"(c) QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to enter into contracts and cooperative agreements with any qualified youth or conservation corps to perform appropriate conservation projects referred to in subsection (d).

"(d) PROJECTS TO BE CARRIED OUT.—The Secretary of the Interior and the Secretary of Agriculture may each utilize the Corps or any qualified youth or conservation corps to carry out appropriate conservation projects that such Secretary is authorized to carry out under other authority of law on public lands. Appropriate conservation projects may also be carried out under this title on Indian lands with the approval of the Indian tribe involved.

"(e) PREFERENCE FOR CERTAIN PROJECTS.—In selecting appropriate conservation projects to be carried out under this title, the Secretary of the Interior and the Secretary of Agriculture shall give preference to those projects that—

"(1) will provide long-term benefits to the public;

"(2) will instill in the enrollee involved a work ethic and a sense of public service;

"(3) will be labor intensive;

"(4) can be planned and initiated promptly; and

"(5) will provide academic, experiential, or environmental education opportunities.

"(f) CONSISTENCY.—Each appropriate conservation project carried out under this title on any public lands or Indian lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents that govern the administration of the area.

"SEC. 205. CONSERVATION CENTERS.

"(a) ESTABLISHMENT AND USE.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as such Secretary determines to be necessary in connection with the Public Lands Corps and appropriate conservation projects carried out under this title and to establish and use conservation centers owned and operated by such Secretary for purposes of the Corps and such projects. The Secretaries shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under this section and shall assure that such standards are enforced. Where necessary or appropriate, the Secretaries may enter into contracts and other appropriate arrangements with State and local government agencies and private organizations for the management of such conservation centers.

"(b) LOGISTICAL SUPPORT.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to have logistical support provided by the Armed Forces to the Corps and any conservation center established under this section, where feasible. Logistical support may include the provision of temporary tent shelters where needed, transportation, and residential supervision.

"(c) USE OF MILITARY INSTALLATIONS.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to identify military installations and other facilities of the Department of Defense and, in consultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Corps for training or housing Corps participants.

"SEC. 206. RESOURCE ASSISTANTS.

"(a) AUTHORIZATION.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide individual placements of resource assistants with any Federal land managing agency under the jurisdiction of such Secretary to carry out research or resource protection activities on behalf of the agency. To be eligible for selection as a resource assistant, an individual shall be at least 17 years of age. The Secretaries may select resource assistants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Secretaries shall give a preference to the selection of individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)) with particular attention given to ensure the full representation of women and participants from historically black, Hispanic, and Native American schools.

"(b) USE OF EXISTING NONPROFIT ORGANIZATIONS.—Whenever one or more existing nonprofit organizations can provide, in the judgment of the Secretary of the Interior or the Secretary of Agriculture, appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such existing organizations. Participating nonprofit organizations shall contribute to the expenses of providing and supporting the resource assistants, through private sources of funding, at a level equal to 25 percent of the total costs of each participant in the resource assistant program who has been recruited and placed through that organization. Any such participating nonprofit conservation service organization shall be required, by the respective land managing agency, to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the resource assistants, to the mission of the agency.

"SEC. 207. LIVING ALLOWANCES AND TERMS OF SERVICE.

"(a) LIVING ALLOWANCES.—The Secretary of the Interior and the Secretary of Agriculture shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.

"(b) TERMS OF SERVICE.—Each participant in the Corps and each resource assistant shall agree to participate in the Corps or serve as a resource assistant, as the case may be, for such term of service as may be established by the Secretary enrolling or selecting the individual.

"SEC. 208. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) EDUCATIONAL BENEFITS AND AWARDS.—If a participant in the Public Lands Corps or a resource assistant also serves in an approved national service position designated under subtitle C of title I of the National and Community Service Act of 1990, the participant or resource assistant shall be eligible for a national service educational award in the manner prescribed in subtitle D of such title upon successfully complying with the requirements for the award. The period during which the national service educational award may be used, the purposes for which the award may be used, and the amount of

the award shall be determined as provided under such subtitle.

"(b) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—For purposes of section 428 of the Higher Education Act of 1965, in the case of borrowers who are either participants in the Corps or resource assistants, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant or a resource assistant.

"SEC. 209. NONDISPLACEMENT.

"The nondisplacement requirements of section 177 of the National and Community Service Act of 1990 shall be applicable to all activities carried out by the Public Lands Corps, to all activities carried out under this title by a qualified youth or conservation corps, and to the selection and service of resource assistants.

"SEC. 210. FUNDING.

"(a) COST SHARING.—

"(1) PROJECTS BY QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to pay not more than 75 percent, and shall collectively pay 75 percent, of the costs of any appropriate conservation project carried out pursuant to this title on public lands by a qualified youth or conservation corps. The remaining 25 percent of the costs of such a project may be provided from non-Federal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing. No cost sharing shall be required in the case of any appropriate conservation project carried out on Indian lands under this title.

"(2) PUBLIC LANDS CORPS PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Public Lands Corps and carrying out appropriate conservation projects by the Corps. The Department of the Interior and the Department of Agriculture shall comply with the Federal share requirements of section 129(d)(2)(B) of the National and Community Service Act of 1990.

"(b) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—In order to carry out the Public Lands Corps or to support resource assistants and qualified youth or conservation corps under this title, the Secretary of the Interior and the Secretary of Agriculture shall be eligible to apply for and receive assistance described in section 121(b) of the National and Community Service Act of 1990, from funds available under section 129(d)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. DEFINITIONS.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

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

"(8) the term 'Corporation' means the Corporation for National and Community Service established under section 191 of the National and Community Service Act of 1990;

"(9) the term 'foster grandparent' means a volunteer in the Foster Grandparent Program;

"(10) the term 'Foster Grandparent Program' means the program established under part B of title II;

"(11) except as provided in section 417, the term 'individual with a disability' has the meaning given the term in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8));

"(12) the term 'Inspector General' means the Inspector General of ACTION;

"(13) the term 'national senior volunteer' means a volunteer in the National Senior Volunteer Corps;

"(14) the term 'National Senior Volunteer Corps' means the programs established under parts A, B, C, and E of title II;

"(15) the term 'Retired and Senior Volunteer Program' means the program established under part A of title II;

"(16) the term 'retired or senior volunteer' means a volunteer in the Retired and Senior Volunteer Program;

"(17) the term 'senior companion' means a volunteer in the Senior Companion Program;

"(18) the term 'Senior Companion Program' means the program established under part C of title II;

"(19) the terms 'VISTA' and 'Volunteers in Service to America' mean the program established under part A of title I; and

"(20) the term 'VISTA volunteer' means a volunteer in VISTA.".

SEC. 402. REFERENCES TO THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(1) Section 1092(b) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 12653a note) is amended—

(A) in paragraph (1)—

(i) by striking "Commission on National Community Service" and inserting "Corporation for National and Community Service"; and

(ii) by striking "Commission shall prepare" and inserting "Board of Directors of the Corporation shall prepare"; and

(B) in paragraph (2), by striking "Board of Directors of the Commission on National and Community Service" and inserting "Board of Directors of the Corporation for National and Community Service".

(2) Section 1093(a) of such Act (42 U.S.C. 12653a note) is amended by striking "the Board of Directors and Executive Director of the Commission on National and Community Service" and inserting "the Board of Directors and President of the Corporation for National and Community Service".

(3) Section 1094 of such Act (Public Law 102–484; 106 Stat. 2535) is amended—

(A) in the title, by striking "commission on national and community service" and inserting "corporation for national and community service";

(B) in subsection (a)—

(i) in the heading, by striking "COMMISSION" and inserting "CORPORATION";

(ii) in the first sentence, by striking "Commission on National and Community Service" and inserting "Corporation for National and Community Service"; and

(iii) in the second sentence, by striking "The Commission" and inserting "The President of the Corporation"; and

(C) in subsection (b)—

(i) in paragraph (1), by striking "Board of Directors of the Commission on National and Community Service" and inserting "President of the Corporation for National and Community Service"; and

(ii) in paragraph (2), by striking "the Commission" and inserting "the President of the Corporation for National and Community Service".

(4) Section 1095 of such Act (Public Law 102–484; 106 Stat. 2535) is amended in the heading for subsection (b) by striking "COMMISSION ON NATIONAL AND COMMUNITY SERVICE" and inserting "CORPORATION FOR NATIONAL AND COMMUNITY SERVICE".

(5) Section 2(b) of such Act (Public Law 102–484; 106 Stat. 2315) is amended by striking the item relating to section 1094 of such Act and inserting the following:

"Sec. 1094. Other programs of the Corporation for National and Community Service.".

(b) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) Sections 159(b)(2) (as redesignated in section 104(b)(3) of this Act) and 165 (as redesignated in section 104(b)(3) of this Act), subsections (a) and (b) of section 172, sections 176(a) and 177(c), and subsections (a), (b), and (d) through (h) of section 179, of the National and Community Service Act of 1990 (42 U.S.C. 12653h(b)(2), 12653n, 12632 (a) and (b), 12636(a), 12637(c), and 12639 (a), (b), and (d) through (h)) are each amended by striking the term "Commission" each place the term appears and inserting "Corporation".

(2) Sections 152, 157(b)(2), 162(a)(2)(C), 164, and 166(1) of such Act (in each case, as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653a, 12653f(b)(2), 12653k(a)(2)(C), 12653m, and 12653o(1)) are each amended by striking "Commission on National and Community Service" and inserting "Corporation".

(3) Section 163(b)(9) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12635l(b)(9)) is amended by striking "Chair of the Commission on National and Community Service" and inserting "President".

(4) Section 303(a) of such Act (42 U.S.C. 12662(a)) is amended—

(A) by striking "The President" and inserting "The President of the United States, acting through the Corporation,";

(B) by inserting "in furtherance of activities under section 302" after "section 501(b)"; and

(C) by striking "the President" both places it appears and inserting "the Corporation".

SEC. 403. REFERENCES TO DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) PRESIDENT.—

(1) Section 159(a) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended—

(A) by striking "BOARD.—The Board" and inserting "SUPERVISION.—The President";

(B) by striking "the Board" in the matter preceding paragraph (1), and in paragraph (1), and inserting "the President"; and

(C) by striking "the Director" in paragraph (1) and inserting "the Board".

(2) Section 159(b) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended by striking "(b)" and all that follows through "Commission on National and Community Service" and inserting "(b) MONITORING AND COORDINATION.—The President".

(3) Section 159(c)(1) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(c)(1)) is amended—

(A) in subparagraph (A), by striking "the Board, in consultation with the Executive Director," and inserting "the President"; and

(B) in subparagraph (B)(iii), by striking "the Board through the Executive Director" and inserting "the President".

(4) Section 166(6) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653o(6)) is amended—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively.

(b) DIRECTOR OF CIVILIAN COMMUNITY CORPS.—Sections 155(a), 157(b)(1)(A), 158(a), 159(c)(1)(A), and 163(a) (in each case, as redesignated in section 104(b)(3) of this Act) of the National and Community Service Act of 1990 (42 U.S.C. 12653d(a), 12653f(b)(1)(A), 12653g(a), 12653h(c)(1)(A), and 12653l(a)) are amended by striking "Director of the Civilian Community Corps" each place the term appears and inserting "Director".

SEC. 404. DEFINITION OF DIRECTOR.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) the term 'Director' means the President of the Corporation for National and Community Service appointed under section 193 of the National and Community Service Act of 1990;".

SEC. 405. REFERENCES TO ACTION AND THE ACTION AGENCY.

(a) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—

(1) Section 2(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950(b)) is amended—

(A) by striking "ACTION, the Federal domestic volunteer agency," and inserting "this Act"; and

(B) by striking "ACTION shall" and inserting "the Corporation for National and Community Service shall".

(2) Subtitle (b) of section 124 of such Act (as redesignated by section 322(2) of this Act) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(3) Section 225(e) of such Act (42 U.S.C. 5025(e)) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(4) Section 403(a) of such Act (42 U.S.C. 5043(a)) is amended—

(A) by striking "the ACTION Agency" the first place such term appears and inserting "the Corporation under this Act"; and

(B) by striking "the ACTION Agency" the second place such term appears and inserting "the Corporation".

(5) Section 408 of such Act (42 U.S.C. 5048) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(6) Section 421(12) of such Act (as added by section 401 of this Act) is further amended by striking "ACTION" and inserting "the Corporation".

(7) Section 425 of such Act (as added by section 370 of this Act) is further amended by striking "ACTION" and inserting "the Corporation".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(j)(1) of title 5, United States Code (as amended by section 372(a)(1)(A)(iii)(II) of this Act) is amended by striking "the Director of ACTION" and inserting "the President of the Corporation for National and Community Service".

(c) PUBLIC HOUSING SECURITY.—Section 207(c) of the Public Housing Security Demonstration Act of 1978 (Public Law 95-557; 92 Stat. 2093; 12 U.S.C. 1701z-6 note) is amended—

(1) in paragraph (3)(ii), by striking "ACTION" and inserting "the Corporation for National and Community Service"; and

(2) in paragraph (4), by striking "ACTION" and inserting "the Corporation for National and Community Service".

(d) NATIONAL FOREST VOLUNTEERS.—Section 1 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a) is amended by striking "ACTION" and inserting "the Corporation for National and Community Service".

(e) PEACE CORPS.—Section 2A of the Peace Corps Act (22 U.S.C. 2501-1) is amended by inserting after "the ACTION Agency" the following: ", the successor to the ACTION Agency,".

(f) INDIAN ECONOMIC DEVELOPMENT.—Section 502 of the Indian Financing Act of 1974 (25 U.S.C. 1542) is amended by striking "ACTION Agency" and inserting "the Corporation for National and Community Service".

(g) OLDER AMERICANS.—The Older Americans Act of 1965 is amended—

(1) in section 202(c)(1) (42 U.S.C. 3012(c)(1)), by striking "the Director of the ACTION Agency" and inserting "the Corporation for National and Community Service";

(2) in section 203(a)(1) (42 U.S.C. 3013(a)(1)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service"; and

(3) in section 422(b)(12)(C) (42 U.S.C. 3035a(b)(12)(C)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service".

(h) VISTA SERVICE EXTENSION.—Section 101(c)(1) of the Domestic Volunteer Service Act Amendments of 1989 (Public Law 101-204; 103 Stat. 1810; 42 U.S.C. 4954 note) is amended by striking "Director of the ACTION Agency" and inserting "President of the Corporation for National and Community Service".

(i) AGING RESOURCE SPECIALISTS.—Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94-135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended—

(1) in paragraph (1)—

(A) by striking "the ACTION Agency," and inserting "the Corporation for National and Community Service,"; and

(B) by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation";

(2) in paragraph (2)(A), by striking "ACTION Agency" and inserting "Corporation"; and

(3) in paragraph (3), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the term 'Corporation' means the Corporation for National and Community Service established by section 191 of the National and Community Service Act of 1990.".

(j) PROMOTION OF PHOTOVOLTAIC ENERGY.—Section 11(a) of the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978 (42 U.S.C. 5590) is amended by striking "the Director of ACTION,".

(k) COORDINATING COUNCIL ON JUVENILE JUSTICE.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation for National and Community Service".

(l) ENERGY CONSERVATION.—Section 413(b)(1) of the Energy Conservation and Production Act (42 U.S.C. 6863(b)(1)) is amended by striking "the Director of the ACTION Agency,".

(m) INTERAGENCY COUNCIL ON THE HOMELESS.—Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended by striking paragraph (12) and inserting the following new paragraph:

"(12) The President of the Corporation for National and Community Service, or the designee of the President.".

(n) ANTI-DRUG ABUSE.—Section 3601 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851) is amended by striking paragraph (5) and inserting the following new paragraph:

"(5) the term 'Director' means the President of the Corporation for National and Community Service,".

(o) ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.—Section 916(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12312(b)) is amended by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation for National and Community Service".

SEC. 406. EFFECTIVE DATE.

(a) COMMISSION.—The amendments made by sections 401 through 402 will take effect on October 1, 1993.

(b) ACTION.—The amendments made by sections 404 and 405 shall take effect on the effective date of section 203(c)(2).

TITLE V—RURAL COMMUNITY SERVICE

SEC. 501. RURAL COMMUNITY SERVICE.

Title XI of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

"PART C—RURAL COMMUNITY SERVICE

"SEC. 1171. FINDINGS; PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's rural centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's rural institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services towards the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge, and experience in these rural institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge, and experience is hindered by the limited funds available to redirect attention to solutions to such rural problems.

"(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1172. PROGRAM.

"The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

"SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances, as the Secretary may require by regulation.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant for more than 5 years.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions under this part and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) RURAL AREA.—The term 'rural area' means any area that is—

"(A) outside an urbanized area, as such term is defined by the Bureau of the Census; and

"(B) outside any place that—

"(i) is incorporated or Bureau of the Census designated; and

"(ii) has a population of 75,000 or more.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) is located in a rural area;

"(B) draws a substantial portion of its undergraduate students from the rural area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary in each fiscal year to carry out the provisions of this part.

"(b) FUNDING RULE.—If in any fiscal year the amount appropriated pursuant to the authority of subsection (a) is less than 50 percent of the funds appropriated to carry out part A in such year, then the Secretary shall make available in such year from funds appropriated to carry out part A an amount equal to the difference between 50 percent of the funds appropriated to carry out part A and the amount appropriated pursuant to the authority of subsection (a).".

SEC. 502. DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subtitle H of title I of the National and Community Service Act of 1990 (as added by section 104(c) of this Act) is amended by adding at the end the following:

"SEC. 198D. SPECIAL DEMONSTRATION PROJECT.

"(a) SPECIAL DEMONSTRATION PROJECT FOR THE YUKON-KUSKOKWIM DELTA OF ALASKA.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

"(b) APPLICATION.—

"(1) GENERAL REQUIREMENTS.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(2) CONTENTS.—The application submitted by the organization shall, at a minimum—

"(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified persons, in partnership with the local not-for-profit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

"(B) take into consideration—

"(i) the primarily noncash economy of the region; and

"(ii) the needs and desires of residents of the local communities in the region; and

"(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by inserting after the item relating to section 198C of such Act the following:

"Sec. 198D. Special demonstration project.".

SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1993

PRESSLER AMENDMENT NOS. 710-712

(Ordered referred to the Committee on Appropriations.)

Mr. PRESSLER submitted three amendments intended to be proposed by him to the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes; as follows:

AMENDMENT NO. 710

At the appropriate place, insert the following new section:

SEC. . (a) Section 1033(e) of the Internal Revenue Code of 1986 (relating to livestock sold on account of drought) is amended by inserting "or flooding" each place it appears in the text and heading thereof.

(b) The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1992.

AMENDMENT NO. 711

After section 701, insert the following new section:

SEC. 702. In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the 1993 crop year, at the option of the producers, the Federal Crop Insurance Corporation shall exclude the yield and rate for the 1993 crop of a commodity for the farm for purposes of calculating yields for the farm under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

AMENDMENT NO. 712

After section 701, insert the following new section:

SEC. 702. In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the 1993 crop year, the Secretary of Agriculture shall not require any repayment under subparagraph (G) or (H) of section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the 1993 crop of a commodity prior to January 1, 1994.

COMMERCE, JUSTICE, STATE, AND THE JUDICIARY APPROPRIATIONS FOR FISCAL YEAR 1994

RIEGLE (AND OTHERS) AMENDMENT NO. 713

Mr. HOLLINGS (for Mr. RIEGLE) (for himself, Mr. ROCKEFELLER, Mr. MOYNIHAN, Mr. DANFORTH, Mr. LEVIN, and Mr. MITCHELL) proposed an amendment to the bill, H.R. 2519, supra, as follows:

On page 49, line 10, strike "$228,922,000" and insert "$242,642,000, of which $13,720,000 shall be for Trade Adjustment Assistance".

On page 60, line 7, strike "$300,000,000" and insert "$298,000,000".

LEVIN (AND OTHERS) AMENDMENT NO. 714

Mr. HOLLINGS (for Mr. LEVIN) (for himself, Mr. RIEGLE, Mr. GLENN, Mr. KOHL, Mr. DURENBERGER, and Mr. D'AMATO) proposed an amendment to the bill, H.R. 2519, supra, as follows:

Page 68, line 16, strike "$1,658,184,000" and insert "$1,653,184,000".

Page 75, line 6, strike "$14,200,000" and insert "$18,200,000".

Page 75, line 6, after ":" insert, "*Provided*, that $4,000,000 shall be made available to the Great Lakes Fishery Commission for the registration of the pesticide, TFM.".

FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS AMENDMENT ACT OF 1993

ROTH AMENDMENT NO. 715

Mr. DURENBERGER (for Mr. ROTH) proposed an amendment to the bill (S. 1131) to extend the method of computing the average subscription charges under section 8906(a) of title 5, United States Code, relating to Federal employee health benefits programs, as follows:

On page 2, line 12, strike out "1998" and insert in lieu thereof "1996".

VETERANS SERVICE-CONNECTED DISABILITIES AMENDMENT ACT OF 1993

ROCKEFELLER AMENDMENT NO. 716

Mr. WOFFORD (for Mr. ROCKEFELLER) proposed an amendment to the bill (S. 970) to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect of December 1, 1992, and to make a technical correction relating to the financing of discount points for certain veterans loans, as follows:

On page 4, line 22, insert "(3)" after "subsection (a)".

On page 6, line 18, insert ", 3710(b)(7)," after "3710(a)(8)".

On page 6, below line 18, add the following:

"SEC. 7. RATE ADJUSTMENTS FOR ADJUSTABLE RATE MORTGAGES.

"Section 3707(b)(2) of title 38, United States Code, is amended by striking out "on the anniversary of the date on which the loan was closed".".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding a markup on Thursday, July 29, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1121, the National Indian Research Institute Act; and Senate Joint Resolution 19, a resolution to acknowledge the 100th anniversary of the January 17, 1983, overthrow of the Kingdom of Hawaii, to be followed immediately by an oversight hearing on tribal college telecommunications and facility needs.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, July 28, 1993, at 10 a.m. to conduct a hearing on HUD's 1993 legislative package.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet at 1 p.m. July 28, 1993, on reauthorization of the Marine Mammal Protection Act/public display and scientific research.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, July 28, beginning at 10 a.m., to hear Mollie H. Beattie, nominated by the President to be Director of the U.S. Fish and Wildlife Service.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, July 28, 1993, at 10 a.m. to hold nomination hearings on Walter Mondale, to be ambassador to Japan and Donald Johnson, to be Ambassador to Mongolia.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, July 28, 1993, at 3 p.m. to hold a nomination hearing on James Jones, to be Ambassador to Mexico.

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

COMMITTEE ON THE JUDICIARY

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 28, 1993, at 11 a.m., to hold a hearing on the nomination of Bruce A. Lehman to be Commissioner of Patents and Trademarks.

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

COMMITTEE ON SMALL BUSINESS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, July 28, 1993, at 2:30 p.m. The committee will hold a full committee markup of S. 1274, the Small Business Guaranteed Credit Enhancement Act of 1993.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, July 28, 1993, at 10:30 a.m., to hold a hearing on proposed amendments to Federal rules of civil procedures.

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

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet on Wednesday, July 28, 1993, at 9:30 a.m., in open session, to receive testimony on the shipment of spent nuclear fuel from U.S. Navy ships and submarines to the Idaho National Engineering Laboratory.

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

SUBCOMMITTEE ON REGULATION AND GOVERNMENT INFORMATION

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Regulation and Government Information be authorized to meet on Wednesday, July 28, at 10 a.m. on the subject: at-home business opportunity scams.

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

SUBCOMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on July 28, 1993, at 10:30 a.m. on oversight of the Fastener Quality Act.

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

SUBCOMMITTEE ON SUPERFUND, RECYCLING AND SOLID WASTE MANAGEMENT

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 28, beginning at 12:30 p.m., to conduct a hearing on the State and local community involvement in Superfund cleanups.

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

ADDITIONAL STATEMENTS

LEGAL ASSISTANCE FOR ILLINOIS FLOOD VICTIMS

• Mr. SIMON. Mr. President, the severe Midwest floods are a national tragedy. The roaring water has caused billions of dollars in damage and forced tens of thousands from their homes. During these times of intense hardship, we must all pull together and come to the aid of those in need. Federal, State, and local government officials are doing their part. What is extremely heartening to see is volunteers contributing their time and energy to help the victims.

One such effort is being led by the Illinois State Bar Association. The bar association established a task force on disaster relief, cochaired by our former colleague Alan Dixon, to provide flood victims and their families with free legal advice and assistance in applying for Government flood relief aid. A toll-free phone line has been established and attorneys from around the state are pitching in to offer their services.

Legal assistance is also important to those with small businesses and farms as they go through the myriad of Government forms and paperwork to receive loans and other assistance. This evening in Alton, IL, and next month in Quincy, IL, the bar group will hold public forums with panels of experts to address common legal problems associated with the flood.

Through this program, the lawyers of Illinois assume an important responsibility for their neighbors in distress. The contributions of these individuals will help victims endure the painful and complicated rebuilding process. They help restore the sometimes forgotten notion that lawyers are their to help people in need. I commend the work of the Illinois State Bar in this important effort.•

SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM

• Mr. GORTON. Mr. President, last Tuesday, the Secretary of Veterans Affairs, Jesse Brown, wrote to Senator ROCKEFELLER, the chairman of the Committee on Veterans Affairs, to ask that his committee favorably consider a Senate version of H.R. 2647, a bill introduced 2 weeks ago by Representative KREIDLER. This bill seeks to standardize the time that will be assumed on aircraft in respect to the Servicemen's Group Life Insurance Program.

The need for this legislation was brought to Representative KREIDLER'S attention, as well as to many of the citizens of Washington State and Montana, when the Veterans Administration recently announced that it could not extend supplemental insurance policies to the families of nine servicemen who departed from Fairchild Air Force Base and crashed in Montana 2½ hours before their policies took effect. According to officials at the Veterans Administration, an exception could not be made for these families because an untold number of cases with similar circumstances would seek supplemental benefits. I understand the Veterans Administrations need for caution in such circumstances.

This case, however, is complicated by the issue of which standard time applies to a military aircraft flight. If the aircraft flew according to the international dateline, the soldiers died on December 1, after their policies came into effect. If they flew under local time, in this case mountain standard time, the insurance is not available. Air Force officials have helpfully pointed out that the servicemen likely considered themselves flying under Greenwich time—the time used in all logs, flight reports, reports to ground stations—and that they likely considered themselves covered by the supplemental insurance. They also point out the inconsistencies created by the use of local time for flights. A crash between two planes leaving from the same base could leave only one plane's passengers eligible for the benefits because of their destination's later time zone.

Representative KREIDLER'S bill would correct this problem by basing flight time for the Serviceman's Group Life Insurance Program on the international date line, beginning on December 1, 1992. The international date line, more so than local time or Greenwich time, will provide the most reliable and consistent standard for determining time during flight.

I applaud Representative KREIDLER'S efforts, as well as the Veterans Administration for their help in quickly endorsing this legislation. I understand that the House Committee on Veterans Affairs plans to report the bill out within the week, and that the full House will soon after take up consideration. If this is the case, I would support the Senate Committee on Veterans Affairs asking the bill be kept at the table once brought to the Senate, as the committee has indicated it plans to do.

Mr. President, the lives of families of soldiers are already made extremely difficult by the uncertainty surrounding their relatives' career. When an unfortunate and avoidable incident such as this occurs, we should work to extend as many benefits as reasonably possible. In this case, when the servicemen had recently extended their benefits, and missed their eligibility by an unclearly defined 2½ hours, I think it is proper that we extend the supplemental benefits as soon as possible, and work for a final clarification of the issue.•

MIGRANT STUDENT RECORD TRANSFER SYSTEM

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2683, a bill to extend the operation of the migrant student

record transfer system, just received from the House; that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table; and that any statements relating to this measure be placed in the RECORD at the appropriate place.

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

So the bill (H.R. 2683) was deemed read the third time and passed.

SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 160, H.R. 236, a bill relating to the Snake River birds of prey; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; that any statements relative to this measure appear in the RECORD at the appropriate place.

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

So the bill (H.R. 236) was deemed read the third time and passed.

Mr. CRAIG. Mr. President, I rise in support of passage of H.R. 236, a bill to establish the Snake River Birds of Prey National Area in my home State of Idaho.

The Birds of Prey Area is a place of great natural beauty and of mixed resource use. It exceeds 480,000 acres and is the home to numerous birds of prey. More than 600 pairs of raptors representing 15 different species nest in this special area. This is one of the densest concentrations of birds of prey that is known in the world. This area has been administratively protected since 1980.

But, this area is also where livestock have grazed and have been recognized as an integral part of the environment since the early part of the century and where the Idaho National Guard operates a sophisticated training area. These uses and the birds have existed in harmony. This legislation will assure that these historical uses will continue in balance with the raptors.

With the passage of H.R. 236 we will assure that this coexistence that has proven to benefit all interests—the birds of prey, cattle, sheep, the military, and Idahoans and the Nation as a whole will continue.

Language agreed to by Congressman LAROCCO and I at the end of the last Congress was structured in this legislation to assure the Snake River Birds of Prey National Conservation Area will be afforded permanent protection while the citizens of Idaho, who have lived in concert with this special area, are assured their way of life will be able to continue.

Mr. President, I encourage all of my colleagues to support this important conservation legislation.

EXTENDING THE METHOD OF COMPUTING AVERAGE SUBSCRIPTION CHARGES FOR FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 125, S. 1131, a bill to extend the method of computing the average subscription charges relating to Federal employee health benefits.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1131) to extend the method of computing the average subscription charges under section 8906(a) of title 5, United States Code, relating to Federal employee health benefits programs.

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. 715

(Purpose: To provide the extension of the method of computing average subscription charges through contract year 1996.)

Mr. DURENBERGER. Mr. President, on behalf of Senator ROTH, 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], for Mr. ROTH, proposes an amendment numbered 715.

On page 2, line 12, strike out "1998" and insert in lieu thereof "1996".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 715) was agreed to.

Mr. WOFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was 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. 1131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF METHOD OF COMPUTING AVERAGE SUBSCRIPTION CHARGES FOR FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS.

(a) IN GENERAL.—The Act entitled "An Act relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 of no Government-wide indemnity benefit plan participates in that year", approved August 11, 1989 (5 U.S.C. 8906 note; Public Law 101-76; 103 Stat. 556) is amended in subsection (a)(1) by striking out "contract years 1990 through 1993" and inserting in lieu thereof "contract years 1990 through 1996".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that nothing in this section should be considered to reflect any view on the appropriateness, merits, or timing, or any other aspect of any comprehensive health care reform legislation.

Mr. WOFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CODIFYING THE RATES OF DISABILITY COMPENSATION FOR VETERANS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 127, S. 970, a bill to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependence and indemnity compensation for survivors of such veterans.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 970) to amend title 38 United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992, and to make a technical correction relating to the financing of discount points for certain veterans.

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. 716

(Purpose: To clarify the technical correction and to revise the adjustment of rates under adjustable rate mortgages)

Mr. WOFFORD. Mr. President, on behalf of Senator ROCKEFELLER, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. WOFFORD], for Mr. ROCKEFELLER, proposes an amendment numbered 716.

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

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

The amendment is as follows:

On page 4, line 22, insert "(3)" after "subsection (a)".

On page 6, line 18, insert ", 3710(b)(7)," after "3710(a)(8)".

On page 6, below line 18, add the following:

SEC. 7. RATE ADJUSTMENTS FOR ADJUSTABLE RATE MORTGAGES.

Section 3707(b)(2) of title 38, United States Code, is amended by striking out "on the anniversary of the date on which the loan was closed".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 716) was agreed to.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise today in support of Senate passage of S. 970, the proposed Veterans' Compensation Rate Codification and Housing Program Technical Correction Act of 1993. This bill, which our committee unanimously supported, would codify the current rates of veterans' compensation as they were increased last year by Public Law 102-510. It also would make certain technical corrections in a law enacted last year that made major improvements in the VA home loan program.

COLA CODIFICATION

Mr. President, at the end of the last session of Congress, we enacted the Veterans' Compensation Cost-of-Living Adjustment Act of 1992 (Public Law 102-510). This law provided a cost-of-living adjustment, effective December 1, 1992, in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation, or DIC, paid to the survivors of certain service-disabled veterans.

Prior to 1992, Congress usually had enacted the annual veterans' compensation COLA in a form that specifies in the law itself the new, adjusted compensation or DIC rate for each category of compensation. The calculation of those new rates depends on the actual rate of inflation through the end of the previous fiscal year, September 30. The inflation rate for this period is not published until the middle or end of October.

In 1992, however, Congress acted so expeditiously that the inflation rate was not known at the time Congress took final action on the legislation on September 30, 1992.

Therefore, rather than specifying each specific, adjusted rate, the law simply required the Secretary of Veterans Affairs to increase the compensation rates by the same percentage as the increases automatically provided by law for Social Security and VA pension benefits, which themselves are based on the inflation rate through September 30. The compensation COLA also took effect on the same date that the increase for these other benefits took effect.

Sections 1-5 of the bill would codify each actual adjusted compensation rate that resulted from enactment of last year's compensation COLA law. The legislation will have absolutely no effect on the payments that veterans and their survivors receive, but codifying the new rates will make it easier for everyone to determine the new rates.

HOUSING PROGRAM TECHNICAL CORRECTION

Mr. President, last year, Congress also enacted changes to the VA-guaranteed home loan program that many housing experts have recognized as the most important improvements since the program took effect in 1944.

The most far-reaching provision of the Veterans Home Loan Program Amendments of 1992 gave veterans, for the first time under this program, the same rights to negotiate the terms of a VA-guaranteed loan that other home buyers exercise in negotiating the terms of conventional home loans and home loans insured by the Federal Housing Administration. Under the new law, veterans can negotiate for lower interest loans by agreeing to pay the lender discount points up front. Each point is equal to 1 percent of the loan amount. The new law also restated the general rule that veterans may not finance the points as part of the loan.

Unfortunately, VA interpreted last year's law as restricting veterans' rights under preexisting law to finance discount points paid in connection with a VA-guaranteed, interest-rate-reduction refinancing loan.

This special type of VA-guaranteed loan was the one exception to the general rule that prohibited veterans from paying points in connection with a VA-guaranteed loan and financing the points as part of the loan. These loans benefit both the veteran and taxpayers by reducing the monthly payments on the veteran's home loan and thereby reducing the likelihood of default.

Section 6 of the bill would clarify that Congress never intended to change the rule allowing veterans to finance discount points as part of an interest-rate-reduction refinancing loan.

AMENDMENT

Mr. President, after I reported this measure, the Department of Veterans Affairs, with which we had worked to craft the original bill, told our committee that additional technical corrections in last year's home loan law were needed. Although I was disappointed that their suggestions came so late, I agree with the substance of the proposed modifications. Therefore, I have included these in a committee amendment to which all our members have agreed. Let me summarize what is in the amendment.

Mr. President, last year's law allowed VA, for the first time, to guarantee adjustable rate home loans. The law required that the adjustments occur once a year, on the anniversary date of the closing of the loan. Unfortunately, this requirement has caused some problems for the commercial acceptance of the VA-guaranteed adjustable rate mortgages, or ARM's. Most mortgages today are pooled with other, similar mortgages, which then are used as the basis for issuing mortgage-backed securities. If the anniversary dates of various ARM's in a mortgage pool are different, this could cause technical problems in issuing securities.

The Federal Housing Administration, which insures home loans, handles this problem by allowing the first adjustment any time between 12 months and 18 months after the loan is closed. Future adjustments are made on the same date each year thereafter.

If we do not correct last year's law to provide similar flexibility with VA-guaranteed ARM's, there could be problems getting these loans accepted in the secondary mortgage market. For example, the Government National Mortgage Association, Ginnie Mae, might have problems accepting these loans in Ginnie Mae mortgage pools.

Mr. President, the amendment would give VA the same flexibility with VA-guaranteed ARM's that FHA has with FHA-insured ARM's. I expect that VA would adopt the same rule that FHA has adopted, allowing the first adjustment no earlier than 12 months, but no later than 18 months, after the loan is closed. This flexibility will make the loans more attractive in the secondary mortgage market, which is essential to ensuring that lenders will make this type of VA-guaranteed loan available to veterans.

CONCLUSION

Mr. President, the COLA codification provisions of this legislation would have no substantive effect and the technical correction affecting the VA-guaranteed home loan program would simply restore a rule Congress never intended to change. Although both parts of this bill are technical, they will provide real, immediate improvements in the ability of veterans and others to look up current compensation rates and in the availability of a special type of VA-guaranteed home loan that benefits both veterans and taxpayers alike by reducing the monthly costs of a home loan.

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 and was read the third time.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate Veterans' Affairs Committee be discharged from further consideration of H.R. 798, the House companion; that all after the enacting clause be stricken and the text of S. 970, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 798), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 798) entitled "An Act to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992", do pass with the following Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. DISABILITY COMPENSATION.

Section 1114 of title 38, United States Code, is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$85";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$247";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$352";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$502";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$632";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$799";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$924";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,040";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,730";

(11) by striking out "$2,089", "$68", and "$2,927" in subsection (k) and inserting in lieu thereof "$2,152", "$70", and "$3,015", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,152";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,371";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,698";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,015";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,295" and "$1,928", respectively; and

(17) by striking out "$1,879" in subsection (s) and inserting in lieu thereof "$1,935".

SEC. 2. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) of title 38, United States Code, is amended—

(1) by striking out "$100" in subparagraph (A) and inserting in lieu thereof "$103";

(2) by striking out "$169" and "$52" in subparagraph (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in subparagraph (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in subparagraph (D) and inserting in lieu thereof "$82";

(5) by striking out "$185" in subparagraph (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in subparagraph (F) and inserting in lieu thereof "$160".

SEC. 3. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 of title 38, United States Code, is amended by striking out "$452" and inserting in lieu thereof "$466."

SEC. 4. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a)(3) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$634	W–4	$911
E–2	654	O–1	803
E–3	672	O–2	829
E–4	714	O–3	888
E–5	732	O–4	939
E–6	749	O–5	1,035
E–7	785	O–6	1,168
E–8	829	O–7	1,262
E–9	[1]866	O–8	1,383
W–1	803	O–9	1,483
W–2	835	O–10	[2]1,627
W–3	860		

"[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $934.

"[2]If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,744.";

(2) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(3) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) of title 38, United States Code, is amended—

(1) by striking out "$310" in paragraph (1) and inserting in lieu thereof "$319";

(2) by striking out "$447" in paragraph (2) and inserting in lieu thereof "$460";

(3) by striking out "$578" in paragraph (3) and inserting in lieu thereof "$595"; and

(4) by striking out "$578" and "$114" in paragraph (4) and inserting in lieu thereof "$595" and "$117", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 of such title is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$319"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 6. TECHNICAL CORRECTION RELATING TO THE FINANCING OF DISCOUNT POINTS.

Section 3703(c)(4)(B) of title 38, United States Code, is amended in the second sentence by striking out "Discount" and inserting in lieu thereof "Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount".

SEC. 7. RATE ADJUSTMENTS FOR ADJUSTABLE RATE MORTGAGES.

Section 3707(b)(2) of title 38, United States Code, is amended by striking out "on the anniversary of the date on which the loan was closed".

Mr. WOFFORD. Mr. President, I now ask unanimous consent that S. 970 be indefinitely postponed.

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

ORDERS FOR THURSDAY, JULY 29, 1993

Mr. WOFFORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m. Thursday, July 29; that following the prayer, the Journal of proceedings be deemed approved to date; that time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 11:15 a.m. with Senators permitted to speak therein for up to 5 minutes each; that immediately after the Chair's announcement, Senator GRASSLEY be recognized for up to 10 minutes, and the following Senators be recognized for the time limits specified and in the order listed: At 9 a.m., Senator FEINSTEIN for up to 10 minutes, to be followed by Senator BAUCUS for up to 15 minutes; that the time from 9:30 to 10:15 be under the control of Senator RIEGLE or his designee, and at 10:15 Senator BYRD be permitted to speak for up to 1 hour.

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

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. WOFFORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:04 p.m., recessed until Thursday, July 29, 1993, at 8:45 a.m.