SENATE—*Thursday, November 18, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9:25 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray:

In a moment of silence, let us commend to the Lord's care and love the mother of Senator MOSELEY-BRAUN.

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124:8.

Almighty God, Lord of history, Ruler of the nations, thank You for this reassurance from King David in the Psalms.

The Senate is a place of power. Powerful people are sometimes oblivious to their need for help, even the help of the Creator God. The subtle rationale is that dependence upon God weakens one's responsibility, despite the fact that the very opposite is true. Dependence upon God increases one's ability to respond effectively to crisis.

Patient Lord, help the Senators, however powerful they are, to be aware of their limitations. Help them to realize dependence upon God strengthens, rather than weakens, human potential. May we contemplate the words of one of our great Presidents, Abraham Lincoln: "I hold myself, in my present position and with the authority vested in me, as an instrument of Providence. I have my own views and purposes, I have my convictions of duty, and my notions of what is right to be done. But I am conscious every moment that all I am and all I have is subject to the control of a Higher Power, and that Power can use me, or not use me, in any manner, and at any time, as in His wisdom and might may be pleasing to Him."

In the name of the Lord who made Heaven and Earth. 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, November 18, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD 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.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 24, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 24) to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senate will now proceed to vote on S. 24 without any intervening action.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed for 1 minute.

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

Mr. LEVIN. Mr. President, this morning we are going to take a major action to restore public confidence in Government and to show that the lesson of Watergate has not been forgotten.

We have learned that persons who are close to the President must be investigated and where appropriate prosecuted by persons who are not appointed directly by the President. The high-level executive branch people cannot investigate and prosecute themselves.

Mr. President, it is 20 years since the Watergate break-in, and today's vote will show we have not forgotten the bitter lessons of that national tragedy. We need a mechanism for the appointment of independent counsel so that no administration, Democratic or Republican, will be in a position to investigate itself.

The bill before us today is a bipartisan effort. It is supported by President Clinton and Attorney General Reno. It will fill the gaping hole that has been on our books since the independent counsel law lapsed last year.

The public has great confidence in the independent counsel system. While the operation of the law has not been perfect, this bill contains many measures that will bring greater accountability to the system. It is my hope that the House can act before adjournment so that we can get this law back on the books.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to speak for up to 1 minute.

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

Mr. METZENBAUM. Mr. President, I rise to express my appreciation and appreciation of all of us in the Senate for the tremendous leadership that the Senator from Michigan, Senator LEVIN, has given in connection with this matter.

When many others were prepared to let the whole issue of the independent counsel slide under the rug and forget about it, the Senator from Michigan with determination and without any reservation at all made up his mind that it was an obligation of this Congress to pass this legislation before we adjourn. He made it clear, also, that the legislation had to be applicable to the right of the independent counsel to investigate Congress if that be necessary and the circumstances called for it.

I just say that on behalf of all of us in the Senate once again the Senator from Michigan has indicated not only his independence, intelligence, and courage, but also his resolve and determination to speak out on behalf of the people of this country. We are all grateful to him.

Mr. LEVIN. I thank the Senator from Ohio.

Mr. DOLE. Mr. President, after watching Lawrence Walsh in action for the past 7 years and counting, you can put me down as a skeptic of any bill that would reauthorize the independent counsel statute.

Since December 1986, Mr. Walsh and his army of lawyers have destroyed reputations, harassed families, run up a tab of more than $40 million billed directly to the taxpayers, even left top-secret documents behind at an airport

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

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taxi stand. And now, 7 years later, can any objective observer look at what Walsh has wrought and say "congratulations on a job well done?"

Obviously, I am no fan of Lawrence Walsh, and I am no fan of the independent counsel statute either. In my view, we ought to have confidence in our Nation's Attorney General—confidence that she can conduct criminal investigations with independence and without the intrusion of politics.

In fact, the Attorney General already has the authority to appoint special counsels in cases that merit an independent review. This authority exists, with or without an independent counsel statute, and it has been invoked by past Attorneys General, including Bush administration Attorney General William Barr who appointed special counsels to investigate the House bank scandal and the Inslaw case.

I am pleased that the managers of the bill, Senator COHEN and Senator LEVIN, have agreed to a number of amendments that I have suggested. Although these amendments will not remedy what I view to be a seriously flawed bill, they will help ensure that some of the abuses of the Lawrence Walsh 7-year witch hunt will not be repeated by future independent counsels.

I think they do help the bill and make it a little more palatable. I hope our conferees would insist that we not alter any of these provisions in conference.

AMENDMENT 1: THE FINAL REPORT

The first amendment narrows the permissible scope of the final report, which independent counsels are required to file prior to terminating their activities.

In my view, this final report requirement is unnecessary and it certainly can be expensive. Once again, we can look to the Lawrence Walsh experience:

After President Bush pardoned former Defense Secretary Cap Weinberger, Walsh spent nearly 8 months drafting his final report. This report has now been filed with the court of appeals here in Washington.

Although the Walsh report is supposed to be protected under a shroud of court-ordered secrecy, portions of the report have been leaked to the press as everything else is in this town, and judging by news accounts, it appears that the report is a self-serving testimonial to the heroics of the Independent Counsel's Office. Even worse, it is paid for by the American taxpayer.

It appears what has happened, we had Lawrence Walsh, who failed over and over again in an effort to get convictions, took care of all these people in his final report, and indicated what a great job he had done and how bad everybody else was. It seems to me he has given the special prosecutor a bad name for a long, long time.

Over and over again, Lawrence Walsh has failed in the courtroom of law. And now, desperate to revive his own sullied reputation, he is apparently seeking success in another venue—the courtroom of public opinion.

It is never easy for a prosecutor when he loses a case. But when the "not guilty verdict" is read, a prosecutor normally picks up his briefcase, hopefully learns from his mistakes, and moves on to the next file.

He does not spend 8 months, at taxpayer expense, writing a report, memoralizing his efforts and blasting the very people he failed to convict, an approach I suspect Mr. Walsh takes in his still-secret final report.

I had originally intended to offer an amendment that would have eliminated the final report requirement entirely, but I believe that the amendment accepted by the managers goes a long way toward accomplishing my intended goal. This modified amendment would retain the final report requirement, but would eliminate the language in the reauthorization bill that allows the independent counsel to describe, in the final report, the "reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel."

If retained, this language would have been an open invitation to independent counsels to editorialize on cases that they, for whatever reason, chose not to bring, smearing hard-earned reputations in the process.

In the last administration, it was Republicans; in this administration it can be Democrats. I do not think it ought to happen to anybody, regardless of their party, if they have not committed any crime or if they are not indicted for some criminal activity.

As Senator COHEN said yesterday on the Senate floor:

> The final report should be a simple declaration of the work of the independent counsel, pertaining to cases in which he or she has sought indictments. * * * The purpose of the [Dole] amendment is to restrict the nature of the [final] report of the facts without engaging in either speculation or expressions of opinion as to the culpability of individuals unless that culpability * * * rises to the level of an indictable offense.

AMENDMENT 2: TIME AND COST LIMITATIONS

The second amendment attempts to impose stricter time and cost limitations on an independent counsel.

As originally drafted, the reauthorization bill authorizes the special court to determine whether an independent counsel should be terminated "no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period." That was the original language. This amendment shortens the termination date, by allowing the court to terminate an independent counsel no later than 2 years after his appointment, or after the independent counsel has incurred $2 million in expenses, whichever occurs first.

The point is that Walsh went on for over 7 years, cost the taxpayers—we do not know—somewhere between $40 million and $100 million. Everybody said, "Oh, we can't do anything about it; we can't monitor; we can't do this; we can't do anything about it." This is an effort to tighten that up so we do not have another Lawrence Walsh experience in the next 5 years. I think by tightening up the requirements, it is a big step in the right direction.

Following this original 2-year period, the court could terminate an independent counsel at the end of each succeeding 1-year period, rather than the 3-year intervals proposed in the original reauthorization bill.

By tightening up these termination dates and by linking court reappointment to the expenses incurred by an independent counsel, this amendment should strengthen court oversight and make future independent counsels more accountable for their actions.

AMENDMENT 3: TERMINATION FOR CAUSE

The third amendment is also about accountability. The current independent counsel statute allows the Attorney General to remove an independent counsel for "good cause," but fails to specify what "good cause" means. So nothing ever happens.

This third amendment makes clear that it is "good cause" to remove an independent counsel if he fails to abide by the written guidelines of the Justice Department or if he violates professional canons of ethics. This modification has real-life consequences, since some experts have suggested that Lawrence Walsh violated professional ethics rules by appearing on national television after the pardon of Secretary Weinberger and suggesting that President Bush was the next target of his never-ending investigation.

This guy never stopped. It was a runaway investigation. It could go on forever and ever and ever. I do not want to impose this on Democrats now that they have the White House. I do not think it is fair to Republicans; it would not be fair to Democrats. We have to rein in these special prosecutors who seem to have a life of their own.

AMENDMENT 4: USE OF JUSTICE DEPARTMENT RESOURCES

The fourth and final amendment makes clear that independent counsels must use the resources of the Justice Department, including the use of Justice Department personnel. This amendment will allow independent counsels to tap into a talented pool of expertise, and reduce costs as well.

I have to believe there are a lot of good career people in the Justice Department—Democrats or Republicans—who can be used instead of going outside and hiring very expensive outside counsel and, in many cases, partisan counsel who have an ax to grind. That is not the purpose of the independent counsel.

CONCLUSION

I suggest that if we have learned anything from the Lawrence Walsh experience, it is that no prosecutor should be given an unlimited budget, unlimited time, and unlimited discretion—all in the name of "independence." It is not independent when all that happens.

Although I applaud some of the improvements that have been made to the independent counsel statute—for example, the requirement that independent counsels be housed in Federal office buildings, rather than in more expensive commercial office space, and the requirement that independent counsels comply with Justice Department spending policies—I continue to believe that the statute is fundamentally flawed and that we ought to trust the Attorney General to perform sensitive prosecutions, even of high-level Government officials.

For this reason, I will vote against reauthorization.

I still do not believe we need the independent counsel statute. I have some faith in the integrity of the Attorney General, Janet Reno, and the Clinton Justice Department. In my view, it is a waste of time and a waste of money. We can get justice without it. My colleagues feel differently.

I wish the next special prosecutor success, and I hope he stays within the limits spelled out in the statute.

VOTE ON S. 24

The ACTING PRESIDENT pro tempore. The Senate will now proceed to vote on S. 24 without any intervening action or debate.

The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. DORGAN], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—76

Akaka	D'Amato	Hutchison
Baucus	Daschle	Inouye
Bennett	DeConcini	Jeffords
Biden	Dodd	Johnston
Bingaman	Domenici	Kassebaum
Bond	Durenberger	Kennedy
Boxer	Exon	Kerrey
Bradley	Feingold	Kerry
Breaux	Feinstein	Kohl
Brown	Ford	Lautenberg
Bryan	Glenn	Leahy
Bumpers	Gorton	Levin
Byrd	Graham	Lieberman
Campbell	Grassley	Mathews
Chafee	Harkin	McCain
Coats	Hatch	Metzenbaum
Cohen	Hatfield	Mitchell
Conrad	Heflin	Moseley-Braun
Coverdell	Hollings	Moynihan
Murray	Robb	Specter
Nickles	Rockefeller	Thurmond
Nunn	Roth	Warner
Packwood	Sarbanes	Wellstone
Pell	Sasser	Wofford
Pryor	Simon	
Riegle	Simpson	

NAYS—21

Burns	Gregg	Murkowski
Cochran	Helms	Pressler
Craig	Kempthorne	Reid
Danforth	Lott	Shelby
Dole	Lugar	Smith
Faircloth	Mack	Stevens
Gramm	McConnell	Wallop

NOT VOTING—3

Boren	Dorgan	Mikulski

So the bill (S. 24), as amended, was passed, as follows:

S. 24

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 "Independent Counsel Reauthorization Act of 1993".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1993".

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The Administrative Office shall not disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel, which shall not be withheld unless the Independent Counsel determines that such information would interfere with a pending investigation or prosecution.

"(3) OFFICE SPACE.—The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the General Services Administration determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.— Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) COMPENSATION.—An" and inserting the following:

"(b) COMPENSATION.—

"(1) IN GENERAL.—An"; and

(2) by adding at the end the following new paragraphs:

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter 1 of chapter 57 of title 5, United States Code, including travel expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—An independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel and subsistence expenses under subchapter 1 of chapter 57 of title 5, United States Code, with respect to duties performed in the city in which the primary office of that independent counsel or person is located after 1 year of service under this chapter. The one year period may be extended by 3 months if the employee assigned duties under subsection (e)(1)(A)(iii) certifies that the investigation will likely be concluded within that time period.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Department of Justice and Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United States Code, is amended by—

(1) striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) adding at the end thereof the following: "To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, to the extent possible throughout his or her term of office, consult with the Department of Justice.";

(3) striking "An independent" and inserting the following:

"(1) IN GENERAL.—An independent"; and

(4) adding at the end thereof the following new paragraph:

"(2) NATIONAL SECURITY MATTERS.—An independent counsel shall consult with the Department of Justice with respect to national security matters and shall comply with guidelines and procedures utilized by the Department for the handling and use of classified material.".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public

Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public service, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "each quarter a report detailing all monies expended and annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2,000,000, whichever occurs first, and at the end of each succeeding 1-year period.".

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures by the date that is 90 days after the date on which the office is terminated. The Comptroller General shall audit each such statement and report the results of each audit to the appropriate committees of the Congress not later than March 31 of the year following the submission of any such statement.".

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking "15" each time it appears and inserting "30".

(k) CRIMINAL INTENT.—Section 592(a)(2)(B) of title 28, United States Code, is amended to read as follows:

"(B) After conducting an examination under section 591(d) or preliminary investigation under this subsection, the Attorney General shall not decline to proceed under this chapter based upon a lack of evidence that the subject acted with the state of mind required for a violation of criminal law, unless the Attorney General determines that, based upon the information obtained, there are no reasonable grounds to believe that the subject acted with the state of mind required for a violation of criminal law, and no reasonable possibility that further investigation would develop such evidence.".

(l) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

"(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to a matter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the matter.".

(m) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after "Except as otherwise provided in this chapter" the following: "or as necessary for law enforcement purposes".

(n) REQUIREMENT TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended to read as follows:

"(1) REQUIRED USE.—An independent counsel shall request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.".

(o) ATTORNEY FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in paragraph (1), by inserting before the last sentence the following: "No award of attorneys' fees shall be made for any fees that would have been incurred by the individual if the investigation had been conducted by the Department of Justice."; and

(2) in paragraph (2), by striking everything after "subsection," and inserting the following: "addressing—

"(A) the sufficiency of the demonstration;

"(B) the need or justification for the underlying item;

"(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

"(D) the reasonableness of the amount of money requested.".

(p) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended—

(1) by striking "fully and completely"; and

(2) by striking ", and the reasons" through the period and inserting a period.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS AND MATTERS.—

"(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person or matter by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person or matter in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether there may have been a violation of Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

"(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended by striking paragraphs (6) and (7) and inserting the following:

"(6) any individual who held an office or position described in paragraphs (1) through (5), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

"(7) any individual who held an office or position described in paragraphs (1) through (5) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and".

SEC. 5. REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) SUBMISSION OF REPORT.—Beginning on January 1, 1994, and again each 6 months thereafter, the President shall submit a report described under subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described under paragraph (1), such individual's—

(A) name;

(B) position and title;

(C) annual rate of pay; and

(D) amount of Federal pay received in the 3-month period immediately preceding the date of the submission of the applicable report required by this section.

SEC. 6. REMOVAL OF INDEPENDENT COUNSEL FOR GOOD CAUSE.

Section 596(a)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "For purposes of this paragraph, the term 'good cause' includes, but is not limited to, (A) the failure of an independent counsel to follow written Department of Justice guidelines, subject to the limitations of sections 594(f)(1) and 594(l)(1)(B), respecting enforcement of the criminal laws, and (B) violations of canons of ethics governing the independent counsel and Federal prosecutors.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of enactment of this Act, except that the compensation restrictions added by section 3(c) of this Act shall apply only to employees appointed after the date of enactment of this Act.

Mr. COHEN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 1607, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order there are 90 minutes remaining to be divided in the usual form.

Who yields time? The Senator from Delaware.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, the time will be equally divided. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER (Mrs. BOXER). Who yields time?

Mr. BIDEN. Madam President, I yield as much time as the Senator from West Virginia needs.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I congratulate Senator BIDEN and Senator HATCH on their great work in connection with this bill. They brought it through the hearings, through the markup. They have managed it well on the floor. They have demonstrated excellent teamwork, and I know that it must be with some sense of relief that they now come to the end of the road, as far as the work in this body is concerned. They are to be highly commended. The Senate is in their debt and the people are in their debt. They still have hard work ahead of them, of course, in the conference.

Madam President, many of our colleagues have read stories of two comparative surveys, one done in 1940 and another in 1990. Of the top problems confronting teachers in our public schools in 1940, what teachers identified as their chief concerns were talking out of turn in class, chewing gum, making noise, running in the hallways, cutting into lines, dress code violations, and thoughtless littering. Those were the chief concerns of teachers 50 years ago.

In 1990, teachers identified as their most pressing behavioral concerns in our public schools: Drug abuse, alcohol abuse, teenage pregnancies, suicide, rape, robbery, and assault. In these shocking comparisons, the schools are but reflecting the overall deterioration, in our society at large, of the behavior of increasing numbers of people and the failure of conscience and a loss of a sense of personal responsibility among millions of people for their own behavior or for the quality of community life across our country.

According to FBI statistics, in 1960, with a total population of approximately 179 million, the United States experienced 288,460 reported violent crimes out of a total of roughly 3.4 million reported crimes nationwide.

In 1991, however, with a total population in excess of 252 million, FBI statistics indicate that the United States suffered the commission of more than 1.9 million violent crimes out of nearly 14.9 million reported crimes nationwide.

In essence, while our population increased roughly 41 percent in 31 years, the national crime rate for violent crimes leapt more than 500 percent and the overall crime rate jumped more than 300 percent.

For millions upon millions of law-abiding, responsible American citizens, crime and one's own vulnerability to crime are becoming among the most pressing concerns in their daily lives.

According to an FBI survey conducted in 1992, 29 percent of Americans have been either victims of crime or have had a family member who has been a victim of crime in the past 3 years; 55 percent of Americans fear that they will personally be victims of crime in the future; and 86 percent of Americans list their falling victim to crime as an important personal fear.

Further, on the basis of the additional 1.9 million violent crimes committed in 1992, the FBI asserts that: One violent crime is committed in this society every 22 seconds; one murder is committed in this society every 22 minutes; one forcible rape is committed in this society every 5 minutes; one robbery is committed in this society every 47 seconds; and one aggravated assault is committed in this society every 28 seconds.

Crime has reached epidemic proportions in our country. Every one of these statistics represents broken bodies; violated personalities; emotional scars that will never heal; a sense of real security forever shattered; families thrown into grief and mourning; neighborhoods cowed into suspicion and terror; millions upon millions of dollars in medical insurance, repairs, and financial restoration paid out to victims; hour upon hour of physical pain to survivors of gunshots, beatings, and rapes; or the loss of valuable property to burglars, muggers, and other assailants.

Madam President, no human society can long survive under the conditions that these statistics and atrocities represent.

Further, unless we somehow gain a genuine handle on controlling, reducing, and ending the rising flood of crime that is besetting America—mark my words well—the growing majority of victims of crime and of the fear of crime, will surrender even some of our most basic liberties to their desire to be rid of the suffering, chaos, pain, anxiety, and fear that the current crime rate is engendering in communities—small and large—from coast to coast.

In S. 1607, the Senate can demonstrate that we have heard, and are heeding, voices that are crying out across our country for action against this rising tide of criminal behavior and heinous personal irresponsibility among those in this society bent on placing our society in thrall to barbarism and criminal excess. Though S. 1607 is not a panacea for the crime plaguing our communities, this piece of legislation will serve as an ebenezer, to borrow Old Testament language—an unignorable monument—a signal that an era of sociological legerdemain and psychobabble is officially ended in crime fighting and that a new era of legal common sense, rationality, and toughness is dawning.

Madam President, I am glad that I was able to be helpful in the development of this legislation here on the floor through my amendment to establish a trust fund totaling more than $22 billion that will be accrued from savings from anticipated Federal personnel cuts accepted by the Senate and incorporated into S. 1607. This trust fund will make possible the enlisting of another 100,000 police officers nationwide to give law enforcement a greater advantage where it is most needed: on our streets and highways and in the neighborhoods and communities in which most Americans live.

The amendment provides funding for the construction and operation of new regional prisons, jails, "boot camps," and other minimum-security State and local facilities in which to house the lawless and the out-of-control miscreants who recognize no authority other than their own.

Again, my amendment in S. 1607 stipulates the use of $1.8 billion for programs aimed at ending violence against women and $500 million for the construction and operation of secure facilities to house violent juveniles.

An additional amendment that I cosponsored will ensure adequate resources to key Federal law enforcement entities such as the Federal Bureau of Investigation and the Bureau of Prisons which provide support to and work hand-in-hand with State and local governments in administering existing programs.

My hope is, Madam President, that some of the other measures included in

S. 1607 will spur States and Commonwealths to update their own criminal laws and to fashion legislation geared to reverse a tide that at times has appeared to favor criminals over both society and the victims of crime, and that too often has underestimated the depth of venality and viciousness attributable to criminal personalities in this society. Further, Mr. President, I hope that a majority of our colleagues will vote for S. 1607 in an action that will signal a cosmic revolution in the outplaying of the future of criminality, violence, murder, and social disruption in America.

Madam President, having said all of this, I should add that people seriously concerned about stemming the tides of crime and murder in this country realize that even measures such as S. 1607 are but substitutes for the real remedy for crime in our country, the restoration of the family in American life to the position it once enjoyed in shaping the personalities and values of the children before they become outlaws and murderers even at the tenderest ages.

Senator MOYNIHAN has spoken often and well on this subject, and he has impressed upon us the fact that the matrix in which children are intended to be shaped into useful, thoughtful participants in the larger society, is the family. If that tutelage is not served—if young boys and girls are not taught discipline in the home and not taught to respect their parents and their teachers and to respect authority—then no amount of money, even in the billions of dollars, will turn around the horrors that we now witness in our city streets, in the hallways of our school buildings, and in once peaceful communities across this Nation.

I thank Senator BIDEN for his courtesy.

Mr. BIDEN. Madam President, let me say while the Senator from West Virginia, the chairman of the Appropriations Committee, is here, notwithstanding the fact that the original Biden bill had all these elements in it, the truth is we would not be at this point were it not for the leadership and innovation shown by the Senator from West Virginia. This notion of a crime fighting trust fund to make happen what we all say on this floor—to use the vernacular, to put our money where our mouth is—is truly innovative and, I would argue, will be the essence of why this legislation takes hold to make society a little safer and a little better.

It is my hope and expectation that our colleagues in the House of Representatives, when we get to a conference with them, will understand this is not a negotiable point on the part of the Senate conferees. I am looking forward to this bill passing, but I am also looking forward to there being an absolutely united front among every member of the conference, Democrat and Republican on the Senate side, to keep in the Robert C. Byrd idea of a trust fund, because otherwise all we are doing is making a lot of promises and not having any realistic prospect of being able to fulfill them.

So I compliment the Senator from West Virginia for his significant contribution. I said earlier at the time we passed the trust fund notion as an amendment in this bill, that every time I have wanted to get—I have been here almost 20 years now, not nearly as long as my friend from West Virginia—every time there has been a tough problem to solve and every time I have needed assistance to get a difficult amendment passed or a new idea moved, the fellow I have always gone to is the distinguished Senator from West Virginia. I know of no one who is more effective in the Senate, I know of no one who is more consistent, and I know of no one who sticks to a commitment more than the Senator from West Virginia.

So I must tell you, Mr. President, I feel somewhat emboldened going to the House, God willing, when we pass this bill, knowing that everyone in the House also knows that the Senator from West Virginia is very committed to this notion of a trust fund.

Mr. BYRD. Madam President, will the Senator yield?

Mr. BIDEN. I will be delighted to yield.

Mr. BYRD. Madam President, I thank the Senator for his gracious remarks. I thank him, however, mostly for his leadership during this bill and for his strong support of having 100,000 policemen on the streets throughout this country. I also thank him for his assurance that the conferees will hold firm with respect to the authorization of $22 billion and with respect to the trust fund. I do not like to go in that direction. I have not approached any matter in that way thus far and may never again. But I felt it was important that this bill be funded so that the American people would really be able to gain hope from the actions taken in the Senate.

I again thank him for his leadership, and I thank the Senator from Utah.

Mr. BIDEN. Madam President, I have found in my experience, when the Senator from West Virginia thinks something is very important, the Senate tends to think it is important and, I am confident, the House as well. I think only on three occasions in my career on a critical matter have I been on the other side of the issue from the Senator from West Virginia, and in retrospect I have regretted all three. But I yield to my colleague from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I am very proud of this Biden-Hatch bill. We have worked very hard to get it to this point. But it would not have come together in my opinion, and I think in the opinion of most observers, without the very important help of the distinguished Senator from West Virginia.

I have a great deal of admiration——

Mr. BYRD. Madam President, will the Senator yield?

Mr. HATCH. Yes.

Mr. BYRD. I would not want to sit idly by and not thank the distinguished Senator for his kind remarks. He has exhibited strong leadership on this bill and in this general area of legislation. I know that he, too, in conference will hold firm and try to retain the salient features that Senators have implanted in this legislation.

I also thank the Senator from Texas [Mr. GRAMM], and again Mr. HATCH for their tenacity in respect particularly to the money for prisons that is authorized in this legislation.

Mr. HATCH. I thank my colleague. I have tremendous respect for my senior colleague. I have watched him through the years when he was majority leader, now as chairman of the Appropriations Committee. There is nobody who works harder, nobody who understands the rules better, nobody who believes in this institution more, nobody who upholds it better.

With the help of this wonderful Senator from West Virginia, with the help of the distinguished Senator from Texas, who also is on the Appropriations Committee, I have to say we now have a trust fund, at least in the Senate bill, that I am going to fight with every fiber in my being to keep.

It would not have happened were it not for the leadership of our friend from West Virginia. He deserves credit for an awful lot of very important things that have happened in the Senate in the 17 years I have been here, and certainly even before then, but I think he can go down in history very proud that he helped put together the Senate bill in this particular case and helped to put the underpinnings together for the bill. If we can hold on to it, and we intend to, we are going to have a bill that will make a tremendous dent in crime in this society, and it could not without the funding mechanism of the distinguished Senator from West Virginia.

I am going to give credit to my friend from Texas as well.

I wish to express my personal admiration, which I have always had but never more than today, for my friend and colleague from West Virginia. I appreciate his kind remarks as well.

Mr. BYRD. Madam President, I again thank the Senator.

Mr. HATCH. Madam President, this is really an important bill. We have come a long way. Personally, I am exhausted. We have a wonderful purpose in this bill that I think will make it the finest crime bill in history. We intend to hold onto it. I hope our colleagues in the House will work with us

because I believe the American people are starting to see that we mean business about crime, and that this bill is going to make a difference.

As in all bills, there may be some things that I do not particularly like. But, overall, this bill is a tremendous addition to the fight against crime. It is, I think, the finest anticrime bill in the history of this country.

At this point, I would like to yield 7 minutes to the distinguished Senator from Texas who also deserves a great deal of praise and credit for the hard work he has done, especially in the area of truth in sentencing and mandatory minimums, and helping in the financing of this particular bill.

So I particularly want to pay tribute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 7 minutes.

Mr. GRAMM. Madam President, let me thank the distinguished Senator from Utah. This is one of those mornings that we have around here once in a while where we give each other kidney problems by patting each other on the back. But it is very seldom that we pass a bill that has so much bipartisan support and that represents a real commitment to do something.

At the risk of striking a discordant note, I want to talk about my concerns about what might happen to this bill when we go to conference with the House. I want to talk very briefly about a fundamental difference of opinion. Jefferson once said that good people with the same facts will come to a different conclusion.

But there is a fundamental difference in our approach to crime and punishment. The President came into office, and in his first budget, cut prison construction by $580 million. Immediately, the President and the Attorney General started talking about prison overcrowding and the need to modify or overturn mandatory minimum sentencing.

In this bill, on a bipartisan basis by overwhelming votes, we have again and again rejected President Clinton's position. We have said in this bill that we are going to build prisons, that we are going to cut existing spending programs to pay for them, and that we are going to set out in law a mandated reduction in the spending caps.

We have an enforcement mechanism. What that is going to do, if that survives our conference with the House, is to cut existing spending by almost $22 billion. We are going to use that money to build prisons and to put policemen on the streets. The American people strongly support those provisions.

I want to go on record as saying if those provisions are dropped, I intend to fight this bill when it comes back from conference. To try to perpetrate another hoax on the American people and imply that we are doing something about crime when we are not willing to put our money where our mouth is I think is totally unacceptable.

The administration is going in one direction. That direction basically is treating crime as a social problem. The country is going in another direction, and that direction is outrage at the fact that violent criminals, over and over and over again, are apprehended, convicted, and sent to jail; they get out of jail far before their terms are up, and they are right back out on the streets brutalizing our citizens. The American people want that changed.

We change it in this bill. We build prisons. But equally important, we have stiff mandatory minimum sentencing.

I am proud of the provisions in this bill that I originally authored that require 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony; 20 years for discharging that firearm; life imprisonment for killing somebody; the death penalty in aggravated cases.

We have a three-time loser provision which says, when every study being done shows clearly and convincingly that we have about 7 percent of the criminals committing some two-thirds of the violent crimes in America—these 7 percent of the criminals are committing hundreds of crimes a year—that there is only one thing we should do about it; that is, grab them by the throat and not let them go, to get a better grip.

The three-time loser provision in this bill has life imprisonment without parole for anyone who is convicted of three serious violent crimes, and major drug felonies.

I want to make it clear to my colleagues that if we come back from conference with a bill that does not fund prisons, with a bill that does not enhance our mandatory minimum sentencing, with a bill that does not put somebody in prison for 10 years and keep them there if they are possessing a firearm during the commission of a violent crime or a drug felony, and the bill does not have at least life imprisonment for killing somebody, not only am I going to oppose this bill, but on every opportunity in the U.S. Senate, I am going to offer these mandatory minimum sentencing provisions.

So by next February, when people are tired of voting on those provisions, I want to remind everybody today that the Senate, by overwhelming vote, said it wanted mandatory minimum sentences. I know the President does not support them. I know the Attorney General does not support them. I know many people in the House do not support them. But unless those provisions are in the final version of this bill, we should vote on those provisions every single day until they become the law of the land.

I think the American people are outraged that we continue to talk tough about crime but we do not do anything about it.

There is a dispute here. I agree with the administration on crime. It is on punishment that we have a fundamental disagreement. But the Senate is not in disagreement. The Senate is united in favor of stiff mandatory minimum sentencing.

Finally, I would like to say something about guns. I am concerned that there is in our society an attempt to blame everybody but criminals. In the District of Columbia, we have a big debate going on about tinted windows on cars. Somehow, if we can just get rid of tinted windows, some say, that would solve the problem with criminals who are driving by and shooting people. What will solve our problem with drive-by shootings is when we arrest those people, give them a trial and put them in prison or put them to death. The idea of blaming tinted windows for people driving by shooting other people is absolutely outrageous.

We have a comprehensive gun ban in the District of Columbia. But it is still the murder capital of America. Why? Because we have crime without punishment.

I was listening to the radio here this morning. Somebody broke out of a minimum security jail who had been in jail for 9 months for armed robbery. Under the provisions of this bill, for armed robbery, that person would have gotten 10 years in a Federal penitentiary without parole for the gun violation, and probably 5 or 6 years in the State prison for the robbery.

That is the kind of provision we need.

Madam President, I do not support everything in this bill. I think the gun control provision in this bill is basically a copout. I am hopeful that it is going to be dropped in conference; that we are going to have a bill that deals with criminals, and does not contain another measure aimed at disarming law-abiding citizens.

But overall this is a good and strong bill. If we can take this bill to conference and come back with funding for prison construction, if we can keep our mandatory minimum sentencing provisions, if we can put more police officers on the streets, if we can fund more courts, have more prosecutors, if we will commit ourselves to be as outraged about crime as the victims are outraged, I believe we are going to begin to turn the tide, and I believe this bill is going to be an important part of it.

I yield the floor.

Mr. BIDEN. Madam President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, it has been a real pleasure to work with my friend from Texas. We most times are

on opposite sides of the issue. This time we are on the same side. But I realize in this business it is difficult for us, notwithstanding the fact we are personally cooperating on this bill, to dismiss the prospect of some parts of it.

Let me set the record straight on this bill. The underlying bill, the Biden-Hatch bill, was the Biden bill. A Guy named BIDEN wrote that bill by sitting down with the President of the United States of America, not with his Attorney General or anybody else, but Bill Clinton, President of the United States of America. Between the time he got elected in November until the time he was sworn in, the President called me at my home on six separate occasions. He, unfortunately, does not need a lot of sleep because sometimes, literally—and I say this on the RECORD—he would call me as late as 11:30 at night to discuss why I was not moving quicker on the Biden crime bill. I sat with him, not his Attorney General.

He wanted 100,000 policemen. He does not view this as a social issue as opposed to trying to bring peace and security to the streets. As Governor of the State of Arkansas, he presided over the execution of individuals within the State. He supports the death penalty. He is the fellow who insisted that I bump this up. Initially, when I said where are we going to get the money, he said, "All I know is I want 100,000 cops. I made that commitment." He endorsed the Biden bill as a candidate when he ran. He is the one who talks about the need for stiffer penalties.

So notwithstanding the fact that some of the old Democrats and former Presidents who were Democrats before Carter, I suspect—I do not know what we are talking about here. But in the old days, it is true, when Richard Nixon was running for President, he used to talk about law and order, and the Democratic response was law and order with justice, whatever either one of those meant. I was running in 1972. I did not think Nixon knew what it meant for the opposition.

This President is very straightforward. He knows there are two steps. No. 1 is that you must take back the streets. You take back the streets by having more cops, more prisons, more physical protection for the people. He also understands what my friend from Texas understands, and he does not talk a lot about it, but he signed onto it in this bill—the need to keep people who are first-time offenders, who are nonviolent offenders or potential first-time offenders, who in fact are people getting themselves into the crime stream for the first time, that they should be diverted from the system.

So I hope this crime bill, when it passes, the Biden-Hatch crime bill, as it becomes law, God-willing, I hope that we will have ended once and for all this notion that is a hangover from the sixties, that somehow Democrats are weak on crime and Democratic Presidents are weak on crime and Republicans are tough on crime. The truth is that every major crime bill since 1976 that has come out of this Congress, and every minor crime bill, has had the name of the Democratic Senator from the State of Delaware, JOE BIDEN, on that bill and has had a majority vote of the Democratic Members of the U.S. Senate on the bill.

So one of the things I want to do, in addition to ending crime, is end the political carnage that goes on when we talk about crime. Crime is not Democrat or Republican. Making the streets safe is not a Democratic or Republican issue. This is one of those issues I hope passage of this bill will change, that it will be taken out of the gridlock category and moved into an emerging consensus, which is as follows, and then I will cease when I finish this statement.

First, we must take back the streets. It does not matter whether or not the person that is accosting your son or daughter or my son or daughter, my wife, your husband, my mother, your parents, it does not matter whether or not they were deprived as a youth; it does not matter whether or not they had no background that enabled them to become socialized into the fabric of society; it does not matter whether or not they are the victims of society. The end result is that they are about to knock my mother on the head with a lead pipe, shoot my sister, beat up my wife, take on my sons. So I do not want to ask what made them do this. They must be taken off of the street. That is No. 1. There is a consensus on that.

The Democratic chairman of the Judiciary Committee, the Democratic President of the United States of America, the Democratic Attorney General, the Republican leader, the Republican leader of this effort, Senator HATCH, and the Republican Senator from Texas all agree on that. We can find some fringe folks in the study groups on the right and left wings, Libertarians and left-wingers in my party who say, "No, that is not what we should do." But politically that consensus has been arrived at. There was not that consensus in the sixties. There is today.

There is a second thing we have all agreed upon. That is, unless we do something about the cadre of young people—tens of thousands of them, born out of wedlock, without parents, without supervision, without any structure, without any conscience developing because they literally have not been socialized, they literally have not had an opportunity. We should focus on them now, not out of a liberal instinct for love, brother, and humanity—although I think that is a good instinct—but for simple, pragmatic reasons. If we do not, they will—or a portion of them will—become the predators 15 years from now.

Madam President, we have predators on our streets, and society has in fact, because of its neglect, created that. It does not mean because we created them that we forgive them or do not take them out of society to protect my family and yours from them. They are beyond the pale, many of those people, beyond the pale. It is a sad commentary on society. We have no choice but to take them out of society.

The truth is that we do not very well know how to rehabilitate them at that point. That is the sad truth. You are looking at the fellow who is one of the primary architects of the sentencing commission. You know what the basic premise of that is? It was the first time in 8 years we rejected the notion that condition of sentencing must be related to how long it would take to rehabilitate. I am the guy that said rehabilitation, when it occurs, whether we do not understand it and notice it, and even when we do and know it occurs, we do not know why, you cannot make it a condition for release. That is why in our system, the Federal system, you serve 85 percent of your time.

I remember what was going on when I was making the arguments in the late 1970's. They called it "BIDEN's same time for the same crime" provision. It is a shame we do not know how to rehabilitate. There is a consensus—and I will soon cease—that we must make the streets safer. I do not care why someone is a malefactor in society. I do not care why someone is antisocial. I do not care why they become a sociopath. We have an obligation to cordon them off from the rest of society, try to help them, try to change their behavior.

That is what we do in the bill. We have drug treatment and others to try to deal with it. But they are in jail, away from my mother, your husband, our families. But we would be absolutely stupid as a society if we did not recognize that the condition that nurtured those folks still exists. And we must deal with that. I think there is a consensus among Republicans now. All barbwire Republican conservatives who once wanted to hang them high, even they are saying we have to deal with the root cause of this, not one or the other, but separately. Liberal Democrats who used to say "Let us look at the sociological underpinnings of why this occurred," they are now saying "you have to take back the streets." We will make that fight later. So there is a consensus.

I hope that the remainder of the discussion closing out the debate in this bill has weakened that old fight, that we can put it behind us and, hopefully, we will have, as the Senator from West Virginia said, "a historic moment on this bill," a consensus being reached. I think it is, but I think it is a historic moment for a political reason as well.

Hopefully we will end the discussion about whether or not Republicans are Neanderthal and only want to hang them high and Democrats are wacko liberals and only want to look at the causes. Those days are gone. Evidence of that is the Democratic Senator from Delaware and the Republican conservative Senator from Utah are united in a Biden-Hatch crime bill that does all the things that I just said.

So, as one of my relatives, who shall remain nameless, will say, God willing and the creek not rising, hopefully we will end this kind of debate and decide how we are going to deal with the problem from here on.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Who yields time?

Mr. BIDEN. Madam President, I yield myself an additional minute.

WHAT THE CRIMINAL JUSTICE COMMUNITY IS SAYING ABOUT THE 1993 CRIME BILL

Police organizations, prosecutors, defense attorneys, and victims groups are all united in their support for the Violent Crime Control and Law Enforcement Act of 1993. Here is what the Nation's largest criminal justice organizations are saying:

Fraternal Order of Police:

On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill which you are now guiding through the Senate. * * * The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

National Association of Police Organizations:

Please be advised that the National Association of Police Organizations, representing over 145,000 sworn law enforcement officers in over 2,000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime and Law Enforcement Act of 1993" (S.1607). * * * NAPO throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

International Brotherhood of Police Officers:

The International Brotherhood of Police Officers represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. * * * S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

International Association of Chiefs of Police:

The International Association of Chiefs of Police has watched with interest the development of your bill S. 1607, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way towards addressing violent crime in this country.

National Sheriffs' Association:

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

National Troopers Coalition:

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Delaware State Troopers Association:

The Delaware State Troopers Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

National Organization for Victim Assistance:

I write to commend you for the contents of Title IX ("Crime Victims") of S. 1488, the Violent Crime Control and Law Enforcement Act of 1993. That title's provisions offer one of the most consequential packages of victim rights and services that the Senate will have considered in several years.

National Victim Center:

Thank you for providing the National Victim Center with the opportunity to express our views and support for the victim-related provisions of the "Violent Crime Control and Law Enforcement Act of 1993." * * * [We] applaud you in your efforts to protect the rights and interests of our nation's crime victims with these important measures. * * * We ardently urge your colleagues in the Senate and House to pass these critical provisions.

National Association of Crime Victim Compensation Boards:

The National Association of Crime Victim Compensation Boards supports S. 1488, the Violent Crime Control and Law Enforcement Act of 1993, since it will make changes to the Victims of Crime Act of 1984 (VOCA) that will help federal, state and local government meet their responsibilities to provide assistance to the nation's crime victims. We thank you once again for your leadership in ensuring that victims receive the services and financial assistance they need to help in their recovery.

National Association of State Alcohol and Drug Abuse Directors, Inc.:

The creation of a grant program to states for residential substance abuse treatment for individuals in State prisons is a step in the right direction in terms of reducing crime. * * * the provision [for] drug treatment in prisons is an important component of crime reduction and recidivism.

I wish to put into the RECORD the endorsement letters from six major police organizations:

Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers, International Association of Chiefs of Police, National Sheriffs' Association, National Troopers Coalition, Delaware State Troopers Association, National Organization for Victim Assistance, National Victim Center, National Association of Crime Victim Compensation Boards, and National Association of State Alcohol and Drug Abuse Directors, Inc.

Madam President, we would not have this bill without the cooperation and support of the police. I worked for 5 years on this bill with the police of this Nation. The leaders of every one of those police organizations I have spoken about have sat in my office, in my conference room, in my inner office for literally, if you add it all up, several hundred hours. We would not be here were it not for the police helping fashion this bill. And I pay public tribute to them now.

Madam President, I ask unanimous consent that the letters associated with each of the organizations I listed be printed in the RECORD.

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

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Columbus, OH, November 9, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill (S. 1607, as amended thus far) which you are now guiding through the Senate.

Although floor action on this important legislation is not yet completed, I did want to take opportunity to commend you for all that you have done to move this measure forward and to strengthen it along the way. We are particularly pleased with the funding language added last week which, at least in theory, would provide approximately $22 billion worth of various anti-crime initiatives. We also note the deletion of the Byrne Grant "hammer" as initially contained in the habeas corpus section of S. 1488, and applaud your efforts to remove this language.

While the crime bill now before the Senate is not perfect, it does represent the triumph of what is possible over what would be ideal. An ideal crime bill would contain a "Police Officers' Bill of Rights," a ban on certain types of semi-automatic assault weapons along the lines of legislation posed by Senator DeConcini, and the deletion of the "Police Pattern and Practice" language which originated in the House last session. Regardless of these problems, however, the legislation as it stands this afternoon is an important step forward and you are to be commended for it.

The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

Sincerely,

DEWEY STOKES,
National President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Please be advised that the National Association of Police Organizations (NAPO), representing over 145,000 sworn law enforcement officers in over 2,000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime and Law Enforcement Act of 1993" (S. 1607). NAPO is excited by the fact that this bill includes $22.3 billion to assist law enforcement in their anti-crime programs including: $8.9 billion to fund 100,000 local law enforcement officers; $6 billion in aid to state and local prisons, jails and military-style boot camps; and money that will address crime in rural America; drug court programs targeting drug offenders now released on probation; secure prisons for violent juvenile offenders; crime prevention in the nation's schools and combat violent youth gangs.

NAPO sincerely hopes that the Kohl amendment which prohibits the sale and possession of handguns by juveniles and the assault weapon amendment sponsored by Senators DECONCINCI, FEINSTEIN and METZENBAUM remain intact and is passed as part of S. 1607. Even though NAPO always has been and continues to oppose the Police Corps Program and additionally, NAPO was hoping to have included in this crime bill the Law Enforcement Officers Bill of Rights, NAPO still throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The International Brotherhood of Police Officers (IBPO) represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993.

The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. S. 1607 represents historic achievements to accomplish this goal. The bill fully funds a total of $22.3 billion in anti-crime programs. Most importantly, the bill provides $8.9 billion to fund 100,000 police officers. The decision to not only authorize but appropriate the resources required to put additional officers on the streets truly recognizes the importance of providing resources to state and local police who are responsible for over 95 percent of the arrests made in the United States.

S. 1607 provides $6 billion in aid to state and local prisons, jails, and boot camps, $150 million toward educational initiatives for current law enforcement officers, $100 million to combat violent youth gangs, $300 million to prevent crime in the nation's schools and $1.2 billion for drug courts that require drug testing, treatment and alternative punishment for young drug offenders.

In addition, S. 1607 takes other critical steps to combat crime. For example, S. 1607 enacts a ban on certain semi-automatic assault weapons. As you know from our recent testimony before the Senate Judiciary Committee, the IBPO supports reasonable efforts to curb proliferation of military-style assault weapons that have no legitimate sporting purpose. In addition, S. 1607 incorporates the provisions of the Violence Against Women Act, which takes a comprehensive approach to reducing domestic violence.

S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, October 22, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fourth largest union in the AFL-CIO. The IBPO represents over 40,000 state and local law enforcement officers across the United States and is the largest police union in the country. I am writing today to urge you to support S. 496, the Gun Dealer Licensing Reform Act, introduced by Senator Simon, which would create reforms to the Federal Firearm Licenses System.

S. 496 allows the Bureau of Alcohol, Tobacco and Firearms to effectively weed out those abusing the system from the majority of honest, law-abiding firearm dealers. S. 496 increases the license fee for firearm dealers from $10 to $750. The current fee has remained unchanged since enactment of the Gun Control Act of 1968; this increase accounts for inflation and additional costs associated with processing and inspection.

In addition, S. 496 tightens loopholes present in the current system. The bill drops the 45-day requirement for action on firearm dealer license applications, allows ATF agents to investigate a dealer more than once a year, if necessary, and requires dealers to report shortages in firearm shipments, or lost or stolen inventory to the Bureau. Finally, the bill would require dealers to certify that they are in compliance with state and local laws before receiving a new license.

Through these provisions, S. 496 prevents the circumvention of state and local laws and ensures the enforcement of federal firearms laws. For example, in the District of Columbia, local laws ban the sale of handguns, but a federal license can still be granted. Passage of S. 496 insures the rank-and-file officers we represent consistency in the enforcement of firearm laws.

Earlier this year, Senator Simon attempted to amend the FY94 Treasury and Postal Service Appropriations Bill to include an increase in the license fee. Although this amendment was defeated by a vote of 30-68, we thank you for your support and, in addition, urge your support for S. 496, a common sense and comprehensive package which allows legitimate gun dealers to continue their business and local law officers to enforce the law.

If you have any questions or comments, please do not hesitate to contact my Legislative Director, Chris Sullivan, at your convenience.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE,
Alexandria, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BIDEN: The International Association of Chiefs of Police (IACP) has watched with interest the development of your bill S. 1067, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way toward addressing violent crime in this country. You and your fellow Senators, especially Senator Hatch, are to be commended for your efforts.

We continue to have concerns about the funding levels and effectiveness of the Police Corps provisions. As you know, and as is articulated in the attached IACP resolution, we will continue to resist this proposal that we believe to be a wasteful use of scarce taxpayers' dollars. We are pleased however, by your assurances that the final bill will not include a "police officers bill of rights."

As was pointed out repeatedly during the debates, fighting crime in the United States occurs primarily at the state and local level. Strong actions and laws must begin at these levels. But the federal government can, and by this legislation will, provide coordinating leadership and needed funding to insure that the nation puts more police officers on the streets, incarcerates violent criminal offenders, provides remedial programs and treatment for non-violent offenders, and develops preventative programs to dissuade future generations from involvement with guns, gangs and drugs.

Again, the IACP commends the efforts of you and your colleagues in the Senate and look forward to working with you on other matters we have discussed to combat violent crime.

Sincerely,

SYLVESTER DAUGHTRY, Jr.,
President.

Attachment.

RESOLUTION—POLICE CORPS PROGRAM

Whereas, the International Association of Chiefs of Police greatly appreciates the intentions and efforts of those members of Congress who support the Police Corps concept, and

Whereas, it is the belief of IACP members that help is needed in recruiting, hiring, and retraining qualified candidates intent on making law enforcement a career; and

Whereas, the concept of a Police Corps does not address the needs and concerns of career, professional law enforcement officers; and

Whereas, IACP fully endorses the concept of improving the education of career police officers; and

Whereas, the monies dedicated to a Police corps could be applied to accomplish the goals of law enforcement in a more effective way; now, therefore be it

Resolved, That the International Association of Chiefs of Police reaffirms their opposition to the enactment of the Police Corps Program as currently proposed, but urges Congress to conduct hearings to address the concerns of law enforcement as it relates to the recruiting, hiring, education, and retention of qualified career law enforcement officers.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Congratulations on your masterful work on the Crime Bill which is now before the Senate. The Sheriffs of the United States are deeply grateful for your commitment to legislation which will attack the crime problems which are of such concern to the entire nation.

We at the National Sheriffs Association are satisfied with the progress of the crime bill. Rural crime issues are being addressed in an appropriately aggressive fashion. Monies are being designated for much-needed jail and prison construction. We are pleased to note that the Triad amendment will direct attention to the concerns about crimes affecting the elderly.

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

Sincerely,

CHARLES B. MEEKS,
Executive Director.

NATIONAL TROOPERS COALITION,
Albany, NY, November 15, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Chairman, Committee on the Judiciary, Senate Dirksen Building, Washington, DC.

DEAR SENATOR BIDEN: We applaud you for your continuing efforts in combatting this nation's escalating crime problem. We know that you are deeply involved at the present time in attempting to work out an acceptable and effective crime bill. The National Troopers Coalition is extremely interested in the passage of legislation that will effectively deal with our nation's crime problem.

We stated the views of the NTC to you on S. 1488 a few weeks ago. Since that time, you have introduced a separate bill, S. 1607. In addition, it is our understanding that certain provisions of S. 1607 relating to habeas proposals have now been detached and will be considered separately.

Since events with respect to the crime bill are fast moving at this point, we wanted to simply restate the NTC's position on this legislation. First, the NTC strongly supports proposals that will provide for funding for additional state and local police officers. Second, the NTC supports funding to aid state and local prisons, jails and military style boot camps, and to construct regional prisons for state offenders from states which have truth-in-sentencing statutes with respect to violent offenders. Third, the NTC supports legislation that contains genuine habeas reform, which (a) preserves Supreme Court decisions, rather than retreating from them, (b) prevents relitigation of constitutional issues determined in state proceedings where the petitioner had a full and fair opportunity for review, (c) contains effective time limits on the filing of habeas petitions, and (d) does not impose cumbersome and costly counsel requirements in state capital cases. Fourth, the NTC supports legislation that would reform the exclusionary rule to allow the admissability of evidence seized under objectively reasonable circumstances. Fifth, the NTC supports the "Brady Bill" and wishes to compliment you on your tireless efforts on this particular legislation.

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Sincerely,

JAMES A. RHINEBARGER,
Chairman.

JOHNNY L. HUGHES,
Chairman, Legislative and Congressional Affairs.

DELAWARE STATE TROOPERS ASSOCIATION,
Dover, DE, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: The Delaware State Troopers Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

We recognize that there will never be a perfect crime bill, however, S. 1607 contains many areas of Public Safety that are important in reducing crime in America. Everywhere in America crime is a major topic of discussion and concern. With the passage of this bill it will enable Law Enforcement to impact reducing crime.

We applaud the Senate Judiciary Committee and your efforts in pushing for passage. Please do not hesitate to call if we can be of any assistance to you or your staff in getting this Bill to the President.

Passage of this Bill is of major importance to all Americans.

Sincerely,

JOSEPH PAPILI,
President.

Mr. BIDEN. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged between the managers of the bill.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Madam President, I ask unanimous consent to be able to speak for 7 minutes on the time of the distinguished senior Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 7 minutes.

Mr. GORTON. Madam President, nothing has shaken our neighborhoods, invaded our schools, overwhelmed our law enforcement officials or distressed our families more than violent crime. Even the simplest events in our lives are haunted by the constant and unpredictable threat of violence. Parents no longer let their children walk to school alone. Companies ask their employees to use the buddy system when walking to their cars. Policemen have become commonplace alongside the candy and magazines at our local grocery store checkout counters. School principals ask their students to walk through metal detectors before they walk to class. Women do not go jogging in their local parks anymore—even during the day. And people can no longer sit at a stoplight at night without wondering what every moving shadow might be.

Across America, feelings of fear have replaced feelings of security. This crime bill is a start toward giving law enforcement the tools it needs to restore America's sense of security and safety, and I am proud to vote for its passage.

More than $22 billion in Federal funds will be made available for 100,000 more police officers, innovative crime prevention grants to States and localities, and prison construction. The ultimate target of this effort is the relative small group of persistent violent offenders who commit more than two-thirds of all violent crimes. This legislation includes Federal sentencing measures that will take those repeat offender of Federal law, and those who use firearms illegally under Federal law, off the streets, permanently. Despite the fact that most convictions occur under State sentencing guidelines, these measures encourage States to adopt similar rough sentencing guidelines.

For example, the three strikes you're out amendment which I cosponsored parallels the initiative passed in my State of Washington to give three-time serious violent offenders sentences of life imprisonment without parole. The American people share the frustration of the people of Washington State who experience violence at the hands of individuals who, despite having served time in prison, strike again and again. The provision will send a strong signal to criminals that there is a clear line. Cross it, continue your criminal ways, and you will see only prison walls for the rest of your life.

In addition, I cosponsored an amendment to this bill which would set tough mandatory sentences for individuals convicted of gun related crimes under Federal law. Specifically, an individual possessing a firearm in commission of a felony would receive at least 10 years in jail; an individual firing a gun in commission of a felony would get 20 years in jail; an individual firing an assault weapon or using a silencer in commission of a felony will get 30 years; if the felony results in the death of an individual, the criminal would face the death penalty.

Madam President, this deals with gun control head on. While many may claim that punishing criminals who use firearms does not work, this measure will get the attention of every gangster, every career criminal, and every dangerous felon. If even one of them thinks twice about picking up an assault weapon or firearm, it will be worth it. And believe me, they do think

twice about consequences of tough sentences. The first question that those arrested for drug offenses ask police is not "Where's my lawyer?," it's "Am I Federal or State?" Yes, there is a good reason why during pursuit from police, criminals toss their weapons away. This measure will help make criminals accountable for their actions and provide law enforcement with the resources it needs to nail the bad guys.

The legislation also includes two important measures which are of particular importance to the Pacific Northwest and Washington State.

The first will help law enforcement put clandestine drug labs out of business. For 3 years, I have sponsored legislation known as the ice breaker bill to: First, control the diversion of certain chemicals used in the illicit production of controlled substances; and second, provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals.

In short, this bill will provide law enforcement with the tools it needs to combat the deadly spread of methamphetamine, or ice, and will make lab operators liable for the environmental and health hazards they create. I am delighted that this legislation, which is the result of years of efforts by the Drug Enforcement Administration, the Chemical Manufacturers Association, the Nonprescription Drug Manufacturers Association, and the Clandestine Laboratory Investigators Association, has been adopted as part of this crime bill.

The second measure is based on current Washington State law and targets perhaps the most horrific criminals of our modern society: sexually violent predators. Far too often, convicted rapists and child molesters will be released from prison without being rehabilitated to walk the streets again as a threat in our parks, school grounds, and shopping center parking lots.

I sponsored an amendment, the Sexually Violent Predators Act, which will encourage States to establish monitoring systems for sexual predators. Under my amendment, law enforcement can keep track of the moves of a sexual predator and will be able to warn communities of his presence. Most importantly, the Federal Bureau of Investigation will both give and receive information about sexual predators to and from State and local law enforcement officials so that they can know if a sexual predator has crossed State lines.

We cannot accept the cynical view that our violent ways will never change. We must deal head on with violent crime, find innovative ways to outsmart the bad guys, and take our streets back.

With that in mind, I am holding a violent crime summit on December 13 in Yakima, WA, with the Washington State Association of Sheriffs and Chiefs of Police. Bringing local, State, and Federal law enforcement together with community leaders committed to fight crime is one way to help turn the tide against the violence we experience everyday. This unprecedented meeting will be an excellent opportunity to maximize the new Federal resources provided in this crime bill.

I would also like to applaud the heroic efforts of organizations such as Safe Streets in Tacoma or COPS West in Spokane to mobilize against crime. Each time I visit a block watch program in my State, I am inspired by its commitment to take back the streets, schoolyards, and neighborhoods. This crime bill will never match the deterrent effect of a community organized and motivated to prevent crime, but it will make its job easier and its streets safer. I am strongly committed to doing everything we can at the Federal level to help communities that want to help themselves.

I am pleased to support this crime bill. It rewards communities already fighting crime, helps the police on the front lines, and begins to eliminate the constant threat posed by repeat violent offenders. It is a substantial effort toward ensuring the ultimate goal of domestic tranquility for all Americans. Our children, our families, and our communities deserve no less.

Madam President, I suggest the absence of a quorum, with the time to be equally divided between the two managers.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Madam President, I yield myself such time as I may need.

Madam President, during the debate—I do not know how many days ago—on this legislation, I made a statement based on a statistic that was given to me in a hearing that more schoolteachers were killed in the line of duty than police were killed in the line of duty.

I would like to correct that statement. I have had my staff working with the Bureau of Justice Statistics and with the various agencies that maintain and compile these statistics. The number of policemen killed in the line of duty in 1991 was either 69 or 71, depending on which figure you accept. They were all, obviously, tragic losses.

Between the years 1986 and 1990, 71 teachers or students were killed in school or on school grounds, 201 students or teachers were severely wounded, and 242 teachers or students were held hostage.

I am going to have for the RECORD a much more detailed analysis of the exact breakdown. But the point is still the same: Teaching school today is a highly dangerous profession.

The notion that you would even be able to compare the risk that police officers faced in their line of duty and that a schoolteacher or student faced in the line of their duty of being a student or a teacher 30 years ago would have been preposterous. But the point is that it is not preposterous today, and it is getting worse. It is getting worse for schoolteachers, and it is getting worse for students, as we all know from just watching the television.

I will, at the appropriate point, place in the RECORD—and I am not prepared to do it at this moment—the various statistics, including testimony relative to the concern before my Judiciary Committee when I held a hearing on the issue of guns in schools, and the testimony of Ronald D. Stevens, executive director of the National School Safety Center.

I will do that because a number of people have asked me about it. They thought that was a startling figure. It startled me. That is why I mentioned it.

It may turn out not to be precisely as indicated—not by my staff, but by someone who testified before our committee—precisely as was advertised to me; that is, actually more teachers killed than police in the line of duty. But it is shamefully close, if it is not precisely accurate.

But I say this mainly because I want the American people to understand what they intuitively know, and that is that in places where we assumed there was safety, places where we assumed we would not have to worry, professions which we assumed would be able to be conducted without fear for physical safety, those assumptions are no longer accurate.

I know my friend from California knows all too well what happens in schoolyards with people wielding assault weapons and what happens to teachers in the inner city as well as, on a few occasions, in rural schools because of the availability of not only guns but the ethic of violence that permeates our society today.

I see my friend from New Mexico is on the floor.

I reserve the remainder of my time, and I would be delighted to yield to him.

The PRESIDING OFFICER. The Senator reserves the remainder of his time. The Senator has 12 minutes 54 seconds remaining.

Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I believe I had 10 minutes reserved. If Senator HATCH thinks that is too much, he will walk on the floor and tell me not to speak that long.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Senator BIDEN, as you leave the floor, let me thank you very much for your efforts on this bill and for your kind remarks in reference to how I felt. I hope I have been helpful, and I hope the managers' bill, as we contemplated last Thursday, at least would include a Domenici-Danforth-Dodd-Stevens-Kennedy, and others, provision. I hope it remains intact. I understand there is a little problem now, but I have every confidence that that kind of measure is going to be included.

Mr. BIDEN. If the Senator will yield, he has been incredibly helpful in the formation of this package. It is my intention that the provision that he referred to remain in the managers' package. But, as he said, we are working with 35 different Senators, all able to object if they wish. It is not the Senator from Delaware who wishes to object. I hope we can fulfill that.

Mr. DOMENICI. I understand. I will do my share to make sure a reasonable managers' package is not objected to.

Madam President, let me tell the Senate first about a rather enlightening and satisfying experience that I had about 7 weeks ago. I went to my home city, as I do frequently. I was honorary chairman of the second annual Youth Outstanding Unified Roundup or the "Y.O.U.R." Basketball Camp. The objective of this camp is to provide 250 financially deprived youth aged 6 to 16 with free basketball instruction and other life skills training that they could not otherwise afford. In addition, 150 pairs of basketball sneakers were given to those most in need.

It was truly remarkable to see the marvelous mix between a few stars from the university basketball team and a few high school basketball players, some good, young female athletes—all helping these young people over a 3-day period. It was a tremendous day. We hooked these kids in with the sports angle and while they were a captive audience, they were taught about the dangers of drugs, AIDS, dangers of gang violence, and crime prevention. It was a very successful event and demonstrated to me that these types of activities need to be replicated across this country and supported, where possible, by the Federal Government.

Prior to that event, it had dawned on me that we were going to pass a crime bill. I could see it coming. At that point I did not think we were going to have any money and we were just going to build a series of authorizing proposals.

Since then, if it works and if the House agrees, we are going to actually have some substantial money, maybe as much as $22 billion over a 5-year period, to be appropriated for the purposes of this bill as it attempts to address the problem of crime in the United States.

The funding source, through the crime bill, did not yet exist when I set about to think of something we ought to be doing that would be positive and preventive, with reference to the young people in this country. So many young people do not have anything to do after they get out of school and in many places have nothing to do on weekends. Clearly most of them, unless they get jobs, have little to do after school, on weekends or during the summer months. For many, few opportunities for recreation, academic enrichment, or positive reinforcement from caring adults exists outside of school.

The youth of today have been born into a society that provides little fertile ground for sound physical, mental, and spiritual development.

If they are fortunate to be born into a strong supportive family, or have adults in their lives who have taken a personal and committed interest in them, they may not remain untouched by society, however, they may grow up without permanent scars from their interaction with it.

Government cannot and should never try to replace the family. Yet we can put forth policies which we hope will strengthen the family or at the very least, fill in those gaps where children are not receiving the support or direction they need and inwardly crave.

My idea was very vague at first. I thought big. I thought maybe $3 or $4 billion out of a bill like this ought to go for prevention activities such as this. I still believe it should, because we have physical facilities going unused, worth billions of dollars in the public schools, in the private schools, in YMCA's and all kinds of facilities—junior high schools that have gyms and recreation facilities. There has been a tendency to say, "This is for the public schools, the athletic department," and we close them down at the end of the schoolday.

I used these facilities when I was a youngster. I was somewhat of an athlete. I was in and out of those when I grew up. Frankly, I was mostly outside because I played a little basketball for 10 or 15 years—in fact, a little bit of professional baseball.

When we were growing up the gyms were used on weekends for pick-up games. Frankly, the coaches knew all the kids in the neighborhood.

Now it is almost like, "These are ours, you get out of here. We do not want you messing up our gym floors and recreation facilities after school or weekends unless you are part of organized recreation." What has happened is recreational and postschool activities for our young people, latchkey and otherwise, have diminished rather than increased over time.

The U.S. Olympic Committee attests to that. There is less recreational activity available today for our young people. The peer pressure for drugs and gangs, and from those who say: "don't care about anything; whatever you want to do it's OK so long as you do not get caught"—is growing. The opportunities to use this extra spare time in orderly ways with adults helping you, to build your minds, build your bodies, centering around things like recreation and other kinds of recreational and academic opportunities are needed more than ever.

So I thought maybe we ought to draft up a bill to utilize the public facilities and center a national program on building community consensus and then managing a program using public schools and other facilities to rebuild this capability. In fact, if a university was around, it would be ideal for them to offer their PE department for this kind of effort.

I am very pleased that I now have a substantial number of cosponsors on both sides of the aisle. The effort itself builds upon the strengths of a proposal developed by my good friend from Missouri, Senator DANFORTH. He has worked tirelessly on his community schools legislation and I commend him for his vision. In addition, I would especially like to thank Senator BRADLEY, DODD, and STEVENS for their efforts.

I would like my colleagues to understand something. It costs the taxpayers an average of $300,000 to house a Federal prisoner for 1 year, far more expensive for violent offenders. We could do so much more on the prevention side with a small portion of those funds for each young person.

The American people often criticize us for "throwing money at problems." This criticism is warranted when the purposes and uses of funds are vague and not managed or evaluated properly.

Despite the legitimate criticism, the Federal Government has a strong role in promoting and supporting efforts to strengthen and oftentimes repair the fabric of our citizenry. Our role is especially acute in caring for the most vulnerable in society.

In general, this Senator is worried about spending, but I also know we are going to spend $22 billion in this crime bill. When we are going to build prisons all over America; when we are going to build regional prisons to help the States out; when we are going to put 100,000 cops on the beat, I am suggesting we ought to spend $100 million a year to see if we cannot put this kind of local consortia together, using some of our money and the available resources so we can help rather that wait around until our young people have committed crimes and then spend the taxpayers' money on that.

I am not opposed to the kind of hard-nosed nature of this bill. In fact, I believe when it comes to using pistols

and guns by our young people and adults, the best medicine is for them to know it will cost them if they do. That is why I support a new concept of minimum sentencing. I support the D'Amato-Domenici amendment that even makes using funds in the commission of crime more and more a national offense so we can use the expedited procedures and proficiency of our Federal courts and Federal prisons to send this message: If you use guns and pistols you are going to pay. Whereas now it is kind of a joke among those who use them.

We can pass Brady. We are going to pass Feinstein. But essentially, until they know that when you get caught doing crime you are really going to get punished, guns are not going to stop being used in crime commission.

But I believe we owe a little more than that. I commend the chairman for trying, in this bill, to put some flexibility in where maybe some of this money going to policemen, going to these other things, could be used for programs that are preventive in nature, directed mostly at our young people, however, I think the Senator from Delaware will agree, in a $22 billion bill, we should be able to do a little better for our young people at risk of gang and drug involvement, than what is currently in the bill.

The proposal involves a matching grant program with a two-prong approach. The first prong provides grants to States through the application of a consortium of individuals interested in youth development. The consortium would establish youth sports, extracurricular, and academic enrichment programs that would operate on a year-round daily basis, on weekdays, weekends, and summers if funds permit.

This prong authorizes the larger portion of funding, $100 million per year over 4 years. Wherever possible, we encourage the use of local schools and other places where children meet.

The second part of it is equally as exciting. There is $50 million in for the first year and $25 million for 4 successive years, so the U.S. Olympic Committee, which has a marvelous national and international reputation, can establish what would be referred to as Olympic youth development centers. They are authorized to receive $50 million in the first year, and $25 million each of the subsequent 4 years. The USOC would be charged with establishing at least one such center in each State, more as funds increase. This effort would be part of this national buildup of recreation after school and on weekends for more and more of our young people in concert with the public schools and other entities that do this out there for our young people already.

All programs would provide to youth participants, a strong program of sports and recreational activity, other extracurricular and academic programs, coupled with a physical exam, and nutrition guidance.

In that regard, the U.S. Olympic committee—U.S. Olympic committee has written a letter to me on November 10. I am not going to read it all. The letter, from the executive director of the USOC, Dr. Harvey Schiller, begins as follows: "On behalf of the United States Olympic Committee, the athletes, and our affiliated organizations, I enthusiastically support" the amendment you are offering to the crime bill. "The intent of your proposal, to provide healthy and productive activities for young people as an alternative to destructive pursuits, is consistent with the most fundamental principles of the Olympic movement."

They have indicated to me privately in discussions that we need a lot more, not less, recreation, and they would love to be part of building this effort in the United States.

I ask unanimous consent the letter be printed in the RECORD.

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

(See exhibit 1.)

The PRESIDING OFFICER. I inform the Senator his 10 minutes has expired.

Mr. DOMENICI. I wonder if I might have 1 more minute?

Mr. HATCH. I yield 1 more minute.

Mr. DOMENICI. Before I close, I would like to recognize the accomplishments of one Senator in particular. Senator STEVENS has been working with me on this proposal. I want my colleagues to be aware of something very important that has happened in the life of Senator STEVENS.

Just 2 weeks ago he was the recipient of the highest honor given by the International Olympic Committee, the Olympic Order. Only 33 American recipients have received this honor, which is bestowed upon those who have illustrated the Olympic ideal through their actions, those who have achieved remarkable merit in the sporting world, and those who have rendered outstanding service to the Olympic cause. He is the only Member of Congress to receive that award and he wholeheartedly helped us and endorses building the Olympic concept into this two-pronged approach we just discussed.

I would just like to say I am so pleased to have such high caliber of bipartisan support for this amendment. With Senators BRADLEY, DODD, KENNEDY, KERRY, and BEN NIGHTHORSE CAMPBELL, Senator DANFORTH, and TED STEVENS, I have great hope for the success of this program.

For instance, one of our principal sponsors of this amendment is Senator BILL BRADLEY of New Jersey. Most people know him from his 10 years with the New York Knicks. However, Senator BRADLEY also served as the captain of the U.S. Olympic basketball team in 1964.

Another Olympic athlete in the Senate, BEN NIGHTHORSE CAMPBELL, was All-American in judo; a three-time U.S. judo champion; captained the U.S. Olympic judo team at the Tokyo Games in 1964: Gold-medal winner in the Pan-American Games of 1963; and he coached the U.S. international team.

Those of us who are sponsoring this amendment believe it is an idea whose time has come.

The problems of our young people turning toward delinquent behavior are everywhere, not just in the major U.S. cities. It is a crisis that we must try to address on the front end.

It may be hard for many of my colleagues to believe, but in New Mexico, we have a very serious gang problem. In Albuquerque alone, the police department has documented the existence of 155 gangs, with estimates of 6,000 or 7,000 members.

My strong belief in the need to reach these young people in New Mexico and across the country before they enter gangs, causes me to associate myself with the remarks of William Raspberry in his October 27 editorial in the Washington Post entitled "a Crime Bill With No Hope," where he says:

> We need to undertake the painstaking work of promoting our values, our unquestioned hope for the future, our taken-for-granted belief in mutuality. We need to give our young people both hope and a conscience. That takes attention and resources at the front end. The crime bill would make the principal investment at the back end—in the criminal justice system—where its already too late.

I appreciate the fact that a strong and growing bipartisan group of Senators is interested in youth development and crime prevention, and I thank my colleagues for supporting this amendment.

EXHIBIT 1

U.S. OLYMPIC COMMITTEE,
Colorado Springs, CO, November 10, 1993.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMINICI: On behalf of the United States Olympic Committee, the athletes, and our affiliated organizations, I enthusiastically support the Youth Development Centers Act of 1993 which you are offering as an amendment to S. 1607, the Omnibus Crime Bill.

The intent of your proposal, to provide healthy and productive activities for young people as an alternative to destructive pursuits, is consistent with the most fundamental principles of the Olympic Movement. As stated in the Olympic Charter, it is our goal to build a better world by educating youth through sport, using it as a means for the development of tomorrow's citizens.

The most visible function of the United States Olympic Committee is to support elite athletes for Olympic competition. But an equally important one is to encourage participation in sports at all levels. The United States Olympic Committee is eager to offer its resources, in cooperation with state and local consortia, in a comprehensive effort to create an environment where young people, especially those at considered risk,

can freely participate in sports that would otherwise not be available to them. By targeting regional preference, each youth center would be equipped to provide a variety of programs appropriate to the constituent youth groups being served.

I am convinced that both of us share a mutual goal of stimulating greater participation in sports and health living as a positive alternative to the negative influences dominating our streets. At a time when crime is threatening a whole generation of American youth, we recognize that there exists a great opportunity for our organization to lend its assets to make a significant contribution to building a better tomorrow. Through this legislation we can deliver a desperately needed avenue of relief and opportunity to America's youth, and accept the challenge and responsibilities your proposal demands.

Sincerely,

HARVEY W. SCHILLER.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 2½ minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BURNS. Madam President, I thank my friend from Utah for yielding this period of time. I also commend my friend from Delaware who this year has brought to the floor—and I think we are fixing to pass—the best crime bill we have been able to fashion since I have been in this U.S. Senate.

It is tough. They set biases aside and wanted to present this country with the toughest crime bill we have ever been able to pass through this Senate.

It was alarming when I went home to Billings, MT, and found out that we have gangs—Billings, MT, with gangs. Some of that we can deal with, but most of the crime is kind of like politics: It is local.

With this crime bill, we do not want to send a wrong message to America. We have to start getting involved ourselves, whether we are in the enforcement business, or whether we are just a member of a neighborhood. We have to start getting involved, personally involved, in this crime fight. Each neighborhood is going to have to take that responsibility. It is sad when 60 percent of women in this country who are called and polled say they limit their activities because they are afraid to go out. What kind of America are we building here?

Also, another alarming statistic is nobody was arrested in 35 percent of the murders; nobody was arrested in 44 percent of aggravated assaults; and nobody was arrested in 76 percent of armed robberies. That is our responsibility and we can do something about this in our communities.

I am an old county commissioner. I am glad we are building prisons again. But we cannot outbuild crime. We have to outsmart it. I think in this bill we provided some ways to do that.

So I want to congratulate the managers of this bill for presenting a tough crime bill that I heartily support. Yes, there are some things in here I do not like. But I have never seen one go through here that there was not something in it I did not like. But I think on the whole, this does as much as we have done in the last decade to confront this terrible thing called crime.

I yield the remainder of my time, and I yield the floor.

Mr. HATCH. I yield 4 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. SPECTER. Madam President, I support this crime bill because I think it makes a significant step forward in the fight against violent crime. More than two decades ago, in 1972, a national commission, on which I served, outlined a blueprint to reduce violent crime by more than 50 percent in America. I believe this crime bill takes a stride in that direction. It really is not enough, but it is a step in the right direction.

I especially think that the provision for 100,000 more police is very significant. In addition, there is $1.2 billion for early intervention for teams of police, social workers, and school teachers to identify troubled youngsters as a step in the right direction on crime prevention. The $1.2 billion for the guidance of new drug courts for drug treatment services to nonviolent first offenders is a step in the right direction. The $3 billion for boot camps is very, very important.

Madam President, the key to reducing violent crime by more than 50 percent is to provide realistic rehabilitation, where possible, to juveniles, first offenders, and second offenders. It is no secret that when someone leaves prison being a functional illiterate without a trade or a skill, and possibly being drug dependent, that person goes back to be a recidivist in the crime cycle. Criminal repeaters account for more than 70 percent of our violent crimes. Once a person becomes a habitual offender, then it is necessary to be very tough—tough sentences for tough criminals and life sentences for habitual offenders.

This bill provides $3 billion for the jailing of State prisoners who are serious and violent offenders and priority must be given to career criminals in that category. I regret that this bill does not take up the serious delays which are now present—up to 18 years—for those who sit on death row where capital punishment is an effective deterrent against violent crime. Even for those who disagree with the deterrent effect of capital punishment, there is no doubt that 37 States have expressed their laws to embrace capital punishment, more than 70 percent of the American people support capital punishment, and 73 Senators have gone on record in this bill as supporting the death penalty.

What we have to do now is fund it, and this is a step in the right direction.

In the remaining moment that I have, I want to call the attention of my colleagues and the Nation to a very serious crime in my home city, Philadelphia, where substantial evidence has been uncovered of vote fraud, a very serious crime, although not violent, which attacks the very underpinning of democracy in the United States. What is at issue is a special election for a State senate seat which would involve control of the State senate in Pennsylvania. There has been substantial evidence of widespread vote fraud in Philadelphia, which I regret to say is a pattern which has existed in Philadelphia for many years. When I was district attorney of Philadelphia, I investigated and prosecuted vote fraud.

Regrettably, Philadelphia has been a one-party town, controlled by Republicans for some 67 years up to 1952, and controlled for the last 40 years by the Democrats.

Madam President, I ask if I might have 2 additional minutes.

Mr. HATCH. Yes.

The PRESIDING OFFICER. The Chair informs the Senator from Utah he has 3 minutes 58 seconds remaining.

Mr. HATCH. Let me yield 2 minutes to the distinguished Senator, and I will have to ask unanimous consent for further time because I have others who want to speak.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. SPECTER. Madam President, I thank the Senator. I will limit my comments to 2 minutes. I think this is important to finish.

Regrettably, when corruption exists in the voting process, it undermines the whole integrity of democracy and it can be as insidious and as serious as crimes of violence. This happens to be an election which, as I say, controls the Pennsylvania State Senate. Philadelphians have been victimized by vote fraud for decades, many of which I prosecuted when I was district attorney of Philadelphia for 8 years. Philadelphia was controlled by the Republicans for 67 years, up until 1952, and has been controlled by the Democrats for 40 years. Regrettably, big-city machine politics means vote fraud and corruption.

I ask unanimous consent to print in the RECORD, because of the limitation of time, accounts which have appeared in the Philadelphia Inquirer for November 16, 17, and 18—today—and copies of letters which I have sent, dated November 16, to the attorney general of Pennsylvania, the district attorney of Philadelphia, and the Attorney General of the United States dated November 17. I do this so we can get to the bottom of this important matter, which is a very important matter on crime, while we are talking about

crime today, and it is an adjunct, of course, as to what we are doing here, but it is a matter of great importance.

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

[From the Philadelphia Inquirer, Nov. 16, 1993]

VOTING "IN THE COMFORT OF OUR OWN HOME"

(By Jeff Gelles and Karen Quinones Miller)

The man who paid a visit in mid-October to Adamina Ayala and her son, Demaris Colon, came with promises.

What he delivered, they now say, was trouble.

"He said we could vote in the comfort of our own home," Colon, 20, of the 2800 block of Fairhill Street, in North Philadelphia's 19th Ward, recalled yesterday. "He came back a couple of days before the election with the ballots, and my mother and I filled them out."

"Ayala, 48, who speaks little English, was suspicious.

"My mother, she said to the man, 'Can I still vote at the school?' And he said no, this is your vote now. But my mother thought the whole thing was fishy, so even though she voted with him, she still went to the school and voted like she always does," Colon recalled.

The experience left Ayala anxious. "When I went to the school, my name was on the list like always. So I voted," she said. "I didn't mean to do anything wrong."

Her son is more angry than worried.

"So If I voted at home, then my vote doesn't count?" he said. "Now that's messed up. He wasted my time and my vote."

It's not clear yet whose votes will or will not count in the Nov. 2 election in the Second Senatorial District, a contest that will determine which party controls the Senate.

Without absentee ballots, Republican Bruce Marks led Democrat William Stinson by 562 votes. But Stinson's 1,391 absentee ballots, versus marks' 366, swung the election to Stinson—and put a focus on Marks' allegation that "massive fraud" took place in the absentee voting.

So far, only a handful of absentee ballots have been thrown out. A Common Pleas Court judge has sealed the ballots, and Marks has already taken his challenge of the voting to the state Supreme Court.

Yesterday, 16 of 25 voters interviewed by The Inquirer said campaign workers for Stinson or the Democratic Party gave them confusing, misleading information about absentee voting. Last week, most of three dozen voters interviewed gave similar accounts.

Ruben Liceaga, 62, of the 2900 block of North Orianna Street, said this year's election was the first in which he had voted absentee.

"Every year before this, I went to the machine on Third Street," Liceaga told a reporter. This year, someone came to his house with the paperwork to vote from home—a privilege that by law is restricted to voters unable to make it to the polls.

"I thought it was strange, but when I asked, they told me that certain people have privilege to vote in the home," Liceaga said. "The people, they say, who are longtime voters have this privilege. I have been voting for 20 years, so I have this privilege, they told me."

Liceaga said he did not know the name of the person who came to this house. "He told me he was a Democrat, and it was the Democrats who give this privilege to some people who vote a long time, but he didn't ask me how I vote."

For Rose Marie Cintron, 37, the opportunity to vote by absentee ballot was the perfect antidote to her night shift.

"These guys came around and said if I filled out the ballot at home I won't have to go out to vote, and since I work night shift, I said, 'Hey, this is great,'" said Cintron, who lives on Reese Street in the 19th Ward.

"That just goes to show you about something seeming too good to be true."

Cintron said the men who visited her said "this was a new system they had to make it easier for people who preferred not to go to the polling place, so they could avoid waiting in lines. I thought it was strange, but I sure liked the idea.

"In fact I filled out a ballot for me and my husband. When I was filling out my ballot, I couldn't figure out if I should go Republican or Democrat, and the guy said, 'Put Democrat, I'm a Democrat and the Democrats are better,' so that's what I did. After I filled out my ballot and my husband's ballot, I sealed them and gave them to the man and he left."

Some who voted absentee in the Second District clearly had reason to do so. Nine of the 25 people interviewed yesterday said they saw no sign of irregularities in the process.

Florence Irwin and her husband, Robert, of the 7200 block of Horrocks Street, in the Northeast, both voted by absentee ballot.

Florence Irwin said they couldn't have voted any other way. Her husband had open-heart surgery a year ago and has not fully recovered, and she has a bladder infection and a thyroid problem.

So Irwin was grateful when committeewoman Geraldine Penn provided her and her husband with absentee ballots.

"I was sick. I did not know at the time whether I could go vote. . . . If we did wrong, I certainly didn't intend to do anything wrong."

[From the Philadelphia Inquirer, Nov. 17, 1993]

TOP REPUBLICANS CALL FOR PROBES OF SECOND DISTRICT VOTING

(By Vanessa Williams)

State Senate Republican leaders descended on Philadelphia yesterday demanding that local, state and federal officials look into allegations of absentee-ballot fraud in the Second Senatorial District.

The lawmakers also said that Margaret Tartaglione, chairwoman of the City Commissioners, and Common Pleas Court Judge Eugene E.J. Maier, both Democrats, should withdraw from any proceedings involving Republican Bruce Marks' challenge to hundreds of absentee ballots cast in the Nov. 2 election.

Marks lost the race by 463 votes to Democrat William Stinson. Marks outpolled Stinson in machine balloting by 562 votes, but the Democrat got three times more absentee ballots.

The City Commissioners have declined to certify the election pending the outcome of Marks' legal challenge to the absentee ballots. The case had been before Maier until the Supreme Court took it for review Friday.

State Sen. Robert C. Jubelirer (R., Altoona), president pro tempore of the Senate, said federal authorities should look into voting rights violations, particularly in the Latino community.

During the last week, The Inquirer has interviewed 90 voters who said they were misled by Stinson campaign workers or Democratic committee persons into casting absentee ballots when they did not qualify to do so under state law.

The outcome of the election will determine which party takes control of the state Senate, which is scheduled to reconvene Monday. If Stinson's victory is upheld, the two parties will have an equal number of members and Democrats will retain control, because the lieutenant governor is a Democrat and can break ties on certain votes. If Marks prevails, the GOP will control the Senate.

In an effort to examine the absentee voter records, The Inquirer yesterday asked the state Supreme Court to direct the City Commissioners to make them available for public inspection.

The Inquirer's petition to the Supreme Court argued that the absentee-ballot records should be released because they are considered public records under state law. It noted that the City Commissioners do not object to the release of the records.

Whoever takes the seat will serve the remaining 14 months in the term of Sen. Francis J. Lynch, who died in May. A primary and general election for the full, four-year term will be held next year.

Jubelirer was joined by fellow Republicans Hank Salvatore, of Philadelphia; Joseph Loeper, of Delaware County; Richard Tilghman and Stewart J. Greenleaf, both of Montgomery County, and David Heckler, the newly elected lawmaker from Bucks County.

Each spoke at a news conference:

Jubelirer called on Tartaglione to withdraw from all proceedings in the dispute. He said that because Tartaglione is a ward leader in the district and because of "her potential responsibility for some of the lack of the ballot integrity . . . she cannot exercise the impartial judgment needed."

Salvatore called on State Attorney General Ernie Preate Jr. to impanel a special grand jury to investigate the allegations. "All we want is an honest election; win or lose, let it be honest," he said.

Loeper called for the Supreme Court to assign the case to a judge outside Philadelphia. He criticized Maier for not having disclosed that his wife got a patronage job at the Philadelphia Parking Authority and that he had applied for a federal judgeship before a panel whose members included the wife of State Sen. Vincent J. Fumo, a leading Stinson backer.

Chris Simeral, Stinson's campaign spokesman dismissed the complaints en masse: "The problem is Bruce Marks is all over the map. When he knows he's going to lose, he takes it to another body where he thinks he might do better."

If Marks demands that Tartaglione withdraw, Simeral said, he also should insist that John Kane, the Republican on the three-member commission who also is a ward leader in the district, withdraw too.

Simeral again complained that Marks' campaign workers had gone out in the district and intimidated voters into saying they had cast fraudulent ballots for Stinson.

Bill Davol, a spokesman for Philadelphia District Attorney Lynne M. Abraham, said that his office received requests yesterday from the Marks' campaign and from the Republican State Committee to investigate the voter-fraud allegations.

Davol said the matter would be forwarded to Preate because Abraham campaigned for Stinson, and she "just didn't want any perceptions of inappropriate behavior, conflict of interest."

Maier responded to Loeper's attack in a letter. He said it had been "widely reported to the media" that his wife, Constance W. Maier, is counsel to the Parking Authority, since she took the job in 1991.

Maier, a former chairman of the City Commission and a former Democratic ward chairman, also acknowledged that he had sought a seat on the federal bench, and had been interviewed by Jane Fumo. But, he said, the appointment went to Majorie O. Rendell, the mayor's wife.

"Neither of those circumstances would in any way affect my fairness or impartiality in this matter, or any other matter, coming before the Court," Maier stated, adding that "no recusal motion has been presented in this case." If such a motion is filed, he said, "I will carefully consider it and decide the motion at that time."

Ralph J. Teti, a former deputy city solicitor who is representing Stinson in the challenge, also dismissed Marks' complaints. "Every lawyer who loses thinks the judge is being unfair."

[From the Philadelphia Inquirer, Nov. 17, 1993]

MORE SECOND DISTRICT VOTERS DESCRIBE ABSENTEE-BALLOT BLITZ

(By Marc Duvoisin, Karen Quinones Miller and Lea Sitton)

As Carole Paxson recalls, the visitor knocked on her door the week before Election Day. He said he worked for the city. He showed her a form he said would allow her to vote in the hotly contested Second Senate District race without having to go to the polls.

He even helped her fill it out.

"Instead of me going around [to a polling place] to vote, I could fill this out and I wouldn't have to go around to vote," Paxson said yesterday, standing on the stoop of her North Philadelphia rowhouse.

Paxson was one of the 42 Second District voters interviewed yesterday who said they had been approached in the days and weeks preceding the Nov. 2 election and urged to vote by absentee ballot, even though they did not appear to meet the legal requirements for that form of voting. These are in addition to 48 similar accounts collected earlier by Inquirer reporters.

Some voters said the visitors—some calling themselves Stinson campaign workers, some saying they worked for the city, and others offering no identification at all—filled out their ballots for them or suggested how they should vote.

Several said that at the urging of these insistent strangers, they completed ballots for relatives—in one case, a husband in prison. One said she was told her vote was more likely to be counted if cast in absentia.

Absentee ballots are at the heart of a legal challenge to the election by Republican Bruce Marks, who narrowly outpolled Democrat William Stinson on the voting machines, but is trailing because the vast bulk of 1,700 absentee ballots were cast for Stinson.

In interviews yesterday, voters in the district, which spreads through North Philadelphia and the lower Northeast, described an intensive effort to get people to apply for and cast absentee ballots, often in seeming disregard of state election law.

It is not clear who directed and carried out the effort—or if any questionable ballots were counted. Records on absentee voting remained under seal yesterday by order of a Common Pleas Court judge.

By law, registered voters can vote by absentee ballot only if they are too sick to get to the polls or will be "unavoidably absent" for a legally acceptable reason, such as work-related travel or military service.

To receive ballots, voters must file written applications with the city commissioners, who oversee elections. It is illegal for someone to help a voter complete the ballot, except in cases involving severe disability.

In the heat of the campaign, these requirements may not always have been obeyed, according to accounts from voters.

In one part of East Frankford, residents described a blitz by unidentified street workers to get people to file requests for absentee ballots.

"We didn't even have to go to the polls. The polls came to us," Viola Hill said outside her home in the 1800 block of North Wilmont Street. "I thought it was something new that they had."

Hill said that in the weeks before the election, visitors brought absentee-ballot forms to her house. Hill said she, her adult daughter, Kimberly, and their neighbor Henry Lewis completed the applications, and the workers carried them off.

Hill quoted the visitors as saying: "'We're looking for absentee voters.'"

Several days later, the workers returned with absentee ballots. Hill said she knew nothing about the candidates and asked the visitors to help her decide. She said they told her that if they were voting, they would vote for Stinson.

Valerie Middleton, who lives in the nearby Whitehall Commons housing project, said a man brought her an absentee ballot, then helped her fill it out. Middleton said the man told her she had applied for a ballot the week before, though she did not remember doing so.

"He told me to put an X someplace, and he put an X someplace."

She said the man put an X beside one candidate's name, saying that was his boss. She said she could not remember who that was.

Mark Newman of the 4700 block of Mulberry Street said workers knocked on his door and told him he was required to vote by absentee ballot. Newman said he filled out and signed applications for himself and, at the visitors' request, for his brother, Frankie.

"I said, 'He's here sometimes, sometimes he isn't,'" Newman said. "They asked me could I fill it out."

Workers brought two absentee ballots to the house several days before the election, Mark Newman said. He said he filled out his ballot and gave it to the workers. They also took with them his brother's unmarked ballot.

Several residents said refusing to vote by absentee ballot was not as easy as saying, "No thanks."

Thelma Butler of the 4700 block of Mulberry Street said she turned away a woman who wanted her to apply for an absentee ballot, only to have a man deliver one two days later. Butler said she took the ballot with her to the polls, where workers ripped it up.

Butler's neighbor Lilly Sharp, 71, who usually makes the trip with her, elected to vote absentee this year.

"They were telling me older people don't have to go," Sharp said.

In the 37th Ward in North Philadelphia, Linda Monroe, 52, of the 700 block of West Huntingdon Street, said she and her daughter, Erica, were approached by a man and woman before the election who told them absentee ballots were not only more convenient but also were less likely to be accidentally excluded from the count.

"They said when you go to the poll sometimes the machines get messed with and your vote don't get counted," Monroe said. "They said this was a quicker way for people to get their votes in."

Monroe said she became suspicious and refused to apply for a ballot.

Monroe's neighbor, Linda Bryant, 41, said she was visited by the same people, and took them up on their offer. She said she completed ballots for herself and her daughter, Shameka, 21, voting a straight Democratic ticket.

"They told me if I wanted to sign an absentee ballot, I wouldn't have to go out and vote," Bryant said. "so I just did it. I just signed my name and marked the boxes, sealed it and gave them the envelope."

Bryant said she completed Shameka's ballot after the visitors told her that was permissible. The daughter was not home at this time.

Farther down the block, Carmen Vasquez, 40, said she, too, was approached by a man talking urgently about voting. She said he completed for her what she believed was a ballot.

"He wrote everything for me, even marked the boxes because I didn't know who was who," Vasquez said. "All I did was sign my name."

Vasquez said the man told her to sign ballots for her daughters, Yesenia and Judith, who were not home. "He said it was OK, because I was their mama," she said with a shrug. "So I did."

Zoraida Rodriguez of the 2600 block of North Darien Street said she was playing with her four children outside her home when she was approached by two men who asked whether she wanted to sign up for an absentee ballot.

"I didn't really understand what they were talking about," she said, "but I said OK and I signed for one for me and for Carlos [Ramos]," her common-law husband, who was in prison.

Rodriguez said the men returned a few days before Election Day with absentee ballots for her, Carlos, and Carlos' brother, Francisco Ramos, who is also behind bars. She told them she didn't know how to fill out the ballot, and one of them helped her, she said.

"I told him I don't know who to vote for and he said, 'Well, vote for this person, because he's the one I work for,' so I did," Rodriguez said. She said could not remember which candidate she voted for.

Rodriguez said the man told her she should fill out Carlos Ramos' ballot as well, and she did.

"I told him that Carlos was locked up, and I didn't think it would be right, but he said anybody can fill out anybody's paper, so I did." Rodriguez said. "I wasn't trying to do anything wrong. I was just doing what he told me to do."

Rodriguez said she balked when the man told her to sign a ballot for her brother-in-law. "The man kept saying it was OK, but I wouldn't do it."

In the 3300 block of Mascher Street, Maritza Resto, 30, and her boyfriend, Victor Castro, 34, also filled out forms at the urging of two visitors.

"They said they were working for the city, and this was for us to vote," Resto said yesterday. "They didn't explain anything. They just said, 'Fill this out.'"

Resto said she thought she was applying for a new voter-registration card, not an absentee ballot. "They had me crazy," she said. "I'm not going to get in trouble, am I?"

A few blocks away, at 3301 N. Palethorp St., four members of the extended family of Thomas Trinidad signed up for absentee ballots—though none was bedridden or planning to be away on Election Day.

Thomas, 20, is the only member of the household who speaks English. He said that he, his mother, Inocencia, 61 and two of her cousins—Julia and Luis DeLeon, both in their 60s—signed what they thought were voter-registration forms.

They later got a second visit from two women bearing new forms—apparently the absentee ballots. Thomas said the women told him to sign so he could vote "in the home."

"They told me that if we vote in the house, we didn't have to go to the [polling] place to vote," he said. The idea appealed to him, he said, "because it's an easy way."

Carolyn Hinger of the 4200 block of Magee Street said a man visited her home a week before Election Day and asked her to sign absentee ballots for herself and her husband, Albert. She complied, she said yesterday, though she wasn't sure whom she voted for.

Hinger said and her husband never applied for absentee ballots.

"He just said he was from a political party; he didn't say Democrat, Republican or anything. . . . And he said, 'You might as well sign for him [Mr. Hinger], too,'" she said.

"He said he was doing this for the people who can't get to the polls, and I thought it was strange because my husband and I can both get to the polls. We can walk to the polls or get in the car."

[From the Philadelphia Inquirer, Nov. 18, 1993]

CITY RECORDS SUPPORT ABSENTEE-VOTE CLAIMS

(By Jeff Gelles and Marc Duvoisin)

Zoraida Rodriguez said the men dropped by her house shortly before Election Day and talked her into applying for absentee ballots for herself and her common-law husband, Carlos Ramos, who is in prison.

A few days later, she said in an interview Tuesday, they returned with the ballots and helped her fill them out—her husband's as well as her own.

Election records made public yesterday by the city Board of Elections lend support to her account and those of other voters in the Second Senate District who have told The Inquirer they were encouraged to cast absentee ballots, even though they were not legally qualified to do so.

Among stacks of absentee ballot records made public yesterday for the first time Since the Nov. 2 election was an envelope bearing Rodriguez's name, address and signature and another with the same information for Ramos. The handwriting and the signatures were vary similar, suggesting Rodriguez may in fact, have filled both out in violation of the law. Linda Bryant, 41, said in a separate interview that she filled out an absentee ballot at the urging of a man and woman who went door-to-door in her North Philadelphia neighborhood, telling resident they should vote from home.

Her 21-year-old daughter, Shameka, was not there, but the visitors said she could fill out a ballot for her as well, Bryant said. So she did.

The pile of ballots unsealed yesterday includes one each for Bryant and her daughter.

While the Democratic candidate, William Stinson, and other party leaders have dismissed reports of questionable absentee ballots, a preliminary review of election documents last night bore out important details of some of the accounts reported by Inquirer reporters over the last week.

Yesterday, fresh accounts continued to surface.

Take the 43d Ward, south of Roosevelt Boulevard around Hunting Park, which gave Stinson a 797-vote margin over Republican Bruce Marks, more than Stinson's 562-vote victory that day across the Second Senate District.

That was just on the voting machines.

In absentee ballots, Stinson did even better. He won almost 99 percent of them in the 43d Ward: 70 absentee votes versus 1 for Marks.

In interviews yesterday, 22 of the 43d Ward's voters cast doubt on how Stinson's campaign amassed that absentee landslide.

They told of being confused or misled into voting absentee by people who said they were working for Stinson, the Democratic Party, the city or who provided no identification.

Some said they were told it was a new way of voting. Some said they had no idea what they were filling out. Some apparently cast absentee ballots without realizing what they had done.

In the last week, The Inquirer has interviewed 112 voters in the Second District who have told similar stories.

In the 43d ward yesterday, Edwina McCall of the 3800 block of Darien Street said that she could have gone to the polling place, but that Barbara Landers, the Democratic committee-woman in the ward's 19th Division, told her she could vote at home instead.

Landers "said I could use the absentee ballot," McCall said. "Who wouldn't use the absentee ballot if they could? I did question it. She said I could do it. I said OK. I told her I wanted [to vote] Democrat. She checked it off for me. I signed my name."

A block away, Landers came out of her house on North Ninth Street and shouted at a reporter knocking on doors:

"Get out of here. Stop harassing people," Landers said.

Later, told that several neighborhood residents had said she told them they could vote absentee for convenience, Landers said: "It's their word against mine," adding: "I have done nothing wrong. I have nothing to talk about. As far as I'm concerned the election is over. I'm through talking about it."

A total of 156 voters in the 43d Ward—more than twice as many who eventually voted absentee—applied for absentee ballots ahead of time, according to computer lists compiled by city officials.

On Nov. 1 and on Election Day, Marks challenged 41 of the 71 absentee ballots cast.

Two of those were the votes of Luis Andujar and Yolanda Torres, neighbors in the 4800 block of North Fairhill Street who, according to city records, both applied for absentee ballots.

Yesterday, though, Andujar and Torres both said they had not even applied for the ballots.

"I guess [my mother] must have because I wasn't here," Torres said.

Maritza Santiago, for one, isn't quite sure whether she voted at all.

Santiago, of the 4200 block of North Fairhill, said she was visited twice before the election. The first time she was asked to register to vote. The second time, she said, a man instructed her to sign the back of an envelope.

"I asked him what is this?" Santiago said. "He said this is an application form for people who cannot go to the voting place to vote.

"I told him I can go vote myself, so why did he need to bring me that piece of paper to sign? He didn't say anything to me. He asked me to fill out the back of this envelope and then he left. It all happened so fast."

Shown a sample absentee-ballot application envelope, she said that was what she had signed.

"I thought it was the new way to vote," she said. "I was scared that I had not done the right thing. I was very confused."

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 1993.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: In articles on November 15, 16 and 17, 1993 concerning Pennsylvania's state senatorial race between Bruce Marks and William Stinson, The Philadelphia Inquirer has reported that voters in Latino neighborhoods of the Second Senatorial District were misled into casting absentee ballots in the November 2 special election, although they did not qualify to file such ballots.

I have written Pennsylvania Attorney General Ernie Preate and Philadelphia District Attorney Lynne Abraham urging them to conduct investigations into alleged State election code violations.

The Philadelphia Inquirer articles suggest possible coercive or other actions resulting in the interference with the right of such persons to vote, which, as you know, violates federal civil and voting rights laws.

Accordingly, I urge that the Justice Department also conduct an investigation into this matter promptly.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 16, 1993.

Hon. ERNIE PREATE,
Attorney General, Commonwealth of Pennsylvania, Harrisburg, PA.

DEAR ATTORNEY GENERAL PREATE: In light of the evidence disclosed by State Senatorial candidate Bruce Marks in hearings in Common Pleas Court and in The Philadelphia Inquirer articles on November 15 and 16, I request your office to conduct an investigation into alleged violations of State election codes.

I am sending an identical request to District Attorney Lynne Abraham.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 16, 1993.

Hon. LYNNE ABRAHAM,
District Attorney,
Philadelphia, PA.

DEAR DISTRICT ATTORNEY ABRAHAM: In light of the evidence disclosed by State Senatorial candidate Bruce Marks in hearings in Common Pleas Court and in The Philadelphia Inquirer articles on November 15 and 16, I request your office to conduct an investigation into alleged violations of State election codes.

I am sending an identical request to Attorney General Ernie Preate.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Madam President, for the reasons stated, I do support this bill. I congratulate the distinguished Senator from Utah for his leadership and the distinguished Senator from Delaware, the chairman of the committee, for his leadership on a bill which I think is highly likely to pass and be very effective in the fight against violent crime in this country.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Utah has 1 minute 51 seconds remaining.

Mr. HATCH. Madam President, I will take a few minutes of that, and then I will ask unanimous consent to yield some time to the distinguished Senator from Idaho.

I would like to make some closing remarks. I would feel badly if I did not stand up and say how much I admire my friend from Delaware and his ability to manage this bill on the floor and the work that he has put into it. I know it has been an exhausting 2 weeks, as we tried to come up with the best crime bill we possibly could.

It is a pleasure to work with him. It is a pleasure to work together on these provisions. I am proud that this can be called a Biden-Hatch bill because it has really turned out to be a good bill. That is assuming Brady is not added to it. But I have to say I have tremendous, inestimable respect for my friend from Delaware, his knowledge of this area, his particular commitment to try to get the best bill we can, and his willingness to go to conference and try to hold on to these matters for and on behalf of the President and everybody here.

I ask unanimous consent to yield 4 minutes to the distinguished Senator from Idaho, who has waited patiently all morning to be able to make his comments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Idaho is recognized for 4 minutes.

Mr. CRAIG. Madam President, let me say at the very outset that I plan to vote for this crime bill—this crime bill—which the Senate over the last week has worked very earnestly to change from the original S. 1607 that was introduced by the chairman a week ago.

But in saying that, I have to recognize both the chairman, Senator BIDEN, and the ranking minority member, Senator HATCH, for their cooperation and the way they have worked together to produce what I really think ought to be called a historic crime bill in the fact that it truly moves this country toward some meaningful approaches to dealing with crime.

A year ago, as we debated crime in the Chamber, there was probably only one real definition, Madam President, and that was "esoteric jibberish." The American people did not understand it, and if it had passed, they would have said it does not make us safer and it will not make our streets safer.

But this bill will do that if it becomes law. For example, we have attacked head on what is perhaps the single biggest challenge to domestic peace, and that is the repeat offender who, statistics show, is committing a vast majority of the crimes in our country today. And you have heard our colleagues refer to that on the floor. It is called the three-strikes-and-you-are-out amendment, where you receive a life sentence if you are three times a felon. It is not just a matter of a turnstile that puts you back on the street, allowing you to commit ultimate crime and drive the crime rate up and put our law-abiding citizens in jeopardy.

We have also attacked a very troubling menace, and that is the haunting that has gone on in this country and in our communities as we have watched juvenile crime escalate almost out of definable proportions.

I joined with my colleague from Wisconsin in crafting legislation that says juveniles except under the right circumstances ought not have a firearm; 240,000 pistols going to America's public schools today just does not make any darned sense at all. This legislation deals with that.

But I must also say this legislation has perpetrated what is a great political hoax, and that is that yesterday we passed a semiauto ban on 19 different kinds of firearms that are used in less than one-half of 1 percent of the criminal activities where firearms are used in this country. I know we have to take all. Well, that treads on our constitutional rights, and it most assuredly is not going to make any street in America safer.

We recognize that, but we will play the game. But what I hope happens when this bill goes to conference is that games that will be played get discontinued.

I say that because if this bill comes back to this floor as a conference report and three times you are out is out and a lot of these other very real crime control measures are out, and guns are in, this is one Senator who will use all of the energy he has to stop this bill from final passage in the conference report.

Now, that is not a threat or a warning. That is practicality.

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

Mr. CRAIG. The American people deserve a tough real crime bill, and if this one stays on the books for us in a conference report, it is tough and it is real.

VICTIM RIGHTS AND RESTITUTION

Mr. NICKLES. Mr. President, while I truly believe there are improvements that could be made in S. 1607, the Violent Crime Control and Law Enforcement Act of 1993, I have come to the floor of the Senate today to laud the victim's rights and mandatory restitution provisions found in the legislation. Three years ago, I introduced the Victim's Rights and Restitution Act, and many of those victim's rights provisions passed as part of the 1990 crime bill. However, the restitution provisions have twice passed the Senate but subsequently been dropped in the conference. I am hopeful that this Congress will see fit to pass this legislation.

I wish to commend the chairman of the Judiciary Committee, Mr. BIDEN, the ranking member, Mr. HATCH, also Mr. THURMOND for their part in including this vital change in the package before us. Passage of this measure would signal a great victory for all victims of crime. If this bill becomes law, crime victims will enjoy rights at the Federal level that many states already guarantee. Most important are the act's restitution provisions, making criminals pay for their crimes. Under the legislation, crime victims will be entitled to receive full financial compensation directly from the criminal in the form of mandatory restitution.

Over the last several years, it seems we have continuously debated what should be done to improve our Nation's judicial system. Now perhaps we can do somthing about it. I strongly believe our judicial system needs fundamental reform to help our police officers and courts deal with the overwhelming increase in crime. Furthermore, it is crucial that while trying to facilitate more effective and efficient methods of dealing with criminals, we must not forget about the most important part of the crime-fighting equation: The victims.

In 1990, I authored the crime victim's bill of rights which passed as part of the 1990 crime bill. For crimes tried in Federal court, victims now have the right to be notified of and involved in court proceedings, the right to be protected from the accused, the right to be treated fairly and with respect, and the right to be informed of the detention status of the convicted criminal.

However, passage of the victims rights portion of my proposal left some unfinished business. Crime victims should be entitled to compensation for losses sustained from their victimization. To correct this glaring inequity, I am pleased that section 902 of the crime bill before us contains my remedy which mandates that courts order restitution in all Federal criminal cases. Victims would be able to recover financial losses resulting from the criminal act. This restitution order would be a condition of any form of release for the offender. The legislation would ensure that the criminal not only pays his debt to society, but he also pays his debt to his victim.

Section 902 also overturns the Supreme Court's ruling in the Hughey case which stated restitution could not be ordered for crimes beyond the scope of the offense of conviction. So, if a criminal is convicted of a criminal offense, but plea bargains his way out of a conviction on a second offense, he cannot be held responsible to repay the victim of the second offense. This obvious shortcoming is corrected by allowing the court to consider the course of

criminal conduct and order restitution for crimes other than the offense of conviction. Plea bargains should not result in victims being denied the justice they deserve which certainly includes full restitution from the offender.

Mr. President, over the years mandatory restitution has received the written endorsements of victim rights experts across the Nation including the National Organization for Victim Assistance, the National Victim Center, Mothers Against Drunk Driving, and the National Coalition Against Sexual Assault.

I am pleased this landmark victim's legislation has been included in this year's crime bill. Mandatory restitution, which not healing all the wounds associated with a crime, will provide some compensation to help people who have been victimized and allow them to get their lives back in order.

LOCAL LAW ENFORCEMENT MUST REMAIN THE SOLE PREROGATIVE OF LOCAL GOVERNMENT

Mr. KEMPTHORNE. I would like to thank the chairman and ranking member for bringing to the Senate one of the most important crime bills in American history. They have done a great service for the American people in this legislation and I believe that the trust American people have placed in them in this process has been greatly justified.

I must say at the outset that there are things in this bill that I will have to think long and hard about before my vote on this bill. I wish that instead of starting on the slippery slope of gun control legislation we could give real punishment to violent criminals a chance to work. We must give the criminal justice system the ability to bring a degree of finality to American justice and assure the American people of the swift and sure nature of punishment for crime in America. I believe, however, that the final resolution of those portions of this legislation will come ultimately in the Supreme Court.

I wish that we had been able, as the minority bill did, to identify a source of funds to finance this bill. This is an important bill, a critical bill to the American people. It is important enough and critical enough to be paid for without adding to the deficit.

I come from a State that has, in comparison to some of the States represented here, a very low crime rate. As a State, we in Idaho unfortunately experienced, according to the 1992 crime statistics, 35 murders and believe me that is a terrible increase over previous years. In the big picture, those 35 murders are not even a month of murders in some States. Our problem in Idaho is drug crime, Idaho is a net exporter of some drugs and we need the Congress to recognize that crime in rural America represents a whole different set of problems than that experienced in urban America. I think this bill does that and I am gratified that for the first time in years I was a part of the Congress which brought it about.

I wish to thank the managers for including my sense-of-the-Senate resolution and my amendment raising the minimum allocation for cops on the street Federal grants into the managers' package.

This amendment will increase the minimum amount for each qualifying State for cops-on-the-beat grants from 50 percent to 80 percent of the total amount appropriated in the fiscal year for grants for that purpose. My reason for this amendment was to provide more moneys to small States like Idaho without raising the total amount authorized under the bill. As I said, I would prefer if we could find a way to pay for this bill and this fact will be a serious consideration as I weigh my vote, but, if we are to adopt this legislation then the distribution should be more fair to rural America.

The crime problems of urban areas today are the crime problems of America's rural areas tomorrow. We must assure that the firebreak of our attack on crime is built to protect rural America. Allowing State governments the ability and resources to address the problem is one of the means we must use to provide a safer America.

The crime bill before us today has stated as one of its purposes that the Senate wishes to send money back to States and local governments to rehire police officers who have been laid off as a result of State and local budget reductions. Furthermore, the act seeks to hire new additional police officers across the Nation.

This is a noble goal. On the floor of the Senate, in relation to this bill, the majority leader said that he wanted to reaffirm that local law enforcement must remain the sole prerogative of local government. I cannot agree more. I have asked for this sense of the Senate because I am alarmed at what I see as creeping federalism of State and local governments.

The best place to fight crime is in the streets. We cannot and should not presume that we can fight crime from Capitol Hill. This body believes that an important element to fighting crime in America is to put more police officers on the street. And we will, in an effort to fund more police officers in the short term, make funds available to local units of government for this purpose.

This is why I introduced a sense of the Senate asking that we address the issue of unfunded Federal mandates.

One of the long-term solutions to the long-term problems of funding law enforcement is that the Congress must move aggressively to address the issue of unfunded Federal mandates. Congress must resolve this problem and find a solution to it. The financial burden on local communities from unfunded Federal mandates must be reduced so that essential local services such as police protection can be prioritized and paid for at the local level.

The U.S. Conference of Mayors, on October 27, 1993, issued a study which outlined the cost of just 10 unfunded Federal mandates on the reporting cities. That study found the cost to those cities of paying for these unfunded Federal mandates to be $54 billion. The economic value to local governments of solving the problem of unfunded Federal mandates will more than outweigh any attempt we might make here, no matter how nobly inspired. Seventy-six cities responding to that survey said that if the burden of unfunded mandates were relieved they would add police officers. A partial list of just some of those cities is included here and I ask that that list be made part of the record.

In Fort Lauderdale, FL, one of those cities on the list, they're spending $7.6 million to meet Federal mandates this year. We've all heard the recent stories about crime in Florida. If they didn't have to pay millions for unneeded Federal mandates, Fort Lauderdale has said it could have used that money to hire 153 new police officers. But hiring more police officers is not an option. They must first comply with the Federal mandates before meeting their local problems head on.

But in this bill we are establishing the Federal Government as the middleman to return funds to the State government we shouldn't be forcing them to spend in the first place. Why are we establishing Congress as a middleman in a local government issue? Why are we using State and local officials as Federal tax collectors?

We are going to take $8.9 billion and pay 75 percent of the price of a police officer for 5 years to local government. At the International Association of Chief's of Police average of $32,000 for a police officer, salary and fringe, this bill will provide 74,000 police officers. But under this bill a city is on the hook for 25 percent of the cost of that police officer's salary, without considering the cost of equipping that officer.

If we would fund Federal mandates in the first place, we could leave more money at home for those local units of government to hire police officers or address other priorities.

During my first year in the Senate I have been gratified that 51 Senators are now cosponsors of S. 993, my bill to eliminate unfunded Federal mandates. While I have sought to bring this issue to the forefront, I have watched the Senate respond. Now almost every debate on the floor of the Senate includes a discussion of unfunded Federal mandates and their impact on States.

Right now, Congress can take an issue, debate it forcefully and passionately, and then resolve to do something

about it—but not be responsible for the price tag. Congress gets the credit. Local officials get the tab.

What I asked for in this sense of the Senate is that we recognize the importance of local governments in the law enforcement process, that we recognize that one of the reasons for the drain on local government budgets is unfunded Federal mandates and that we pledge to aggressively address the issue of unfunded Federal mandates.

MANDATE POLICE PROTECTION

California: Chino, Fremont, Garden Grove, Gilroy, Irvine, Los Angeles, Lompoc, Newark, San Bernadino, San Francisco, Santa Monica, Upland, Vallejo.

Connecticut: Norwalk, Torrington.

Florida: Fort Lauderdale, Orlando.

Georgia: East Point.

Illinois: Chicago, Rock Island.

Indiana: Elkhart.

Kentucky: Louisville.

Louisiana: New Iberia.

Massachusetts: Brockton, Haverhill, Springfield.

Maryland: Hagerstown, Rockville.

Maine: Lewiston.

Michigan: Grand Rapids, Rochester Hills, Romulus, Warren.

North Carolina: Charlotte.

New Jersey: Jersey City.

Nevada: North Las Vegas.

New York: New York.

Ohio: Cleveland Heights, Lima.

Rhode Island: Cranston.

Texas: Amarillo, Brownsville, Fort Worth, Houston, Nacogdoches, Port Arthur, San Marcos.

Utah: Murray.

Mr. MCCONNELL. Mr. President, for too long we have debated crime bills designed to protect politicians from defeat rather than to protect Americans from crime. We must do better this time. Those matters that we can quickly reach bipartisan consensus on—more prisons, stiffer sentences, more police officers—must be enacted. This Congress. This year.

The crime debate is replete with statistics. But raw numbers, crime rates, recidivism rates—do not present a complete portrayal of the crime problem. The increasingly vicious nature of crimes cannot be quantified. The cool detachment of criminal predators does not lend itself to statistical analysis. The almost palpable fear gripping many neighborhoods cannot be conveyed on a floor chart.

Mr. President, Americans do not need reports from the Bureau of Justice Statistics to know there is a serious problem. They do not need Congress to declare it. They do not need GAO to study it. They live it, every day. They fear it, every night. It is pervasive in millions of Americans' daily lives. Fear is present when they walk through the parking lot, drive on the streets and highways, and sleep in their homes. Americans fear for themselves, and their loved ones. They feel for those they read about or see on the evening news—the statistics.

The floor statements over the last few days have forcefully and eloquently acknowledged the violent crime epidemic. It is difficult to put into words the rage, the frustration, which we all feel at the unending rampage of violence in this country. Conveying with words the brutality on our streets perhaps requires the literary skill of horror novelist Stephen King.

We have heard many horrendous events related on this floor. Some of us even have personal experiences, friends or family who have been victims. But I do not believe that most of us, Members or staff, can really understand the fear that grips the most dangerous neighborhoods. Can we truly imagine the terror that causes young children in urban war zones to sleep in the bathtub, so that spraying bullets will not strike them dead in their sleep? Have salesmen knocked on our doors to pitch life insurance policies in the event of our children's death?

Many of us, women particularly, probably have known the momentary terror of a strange noise in the dark. A menacing sound which makes the heart pound out of fear and causes the mind to conjure up terrible images. Who has not wondered for a moment whether to alert the police when a loved one is late returning home? It is a new dimension of life in America. The constitutional promise of life, liberty, and the pursuit of happiness has been violated by the fear of crime.

Fear, Mr. President. It's become an industry in America. Products such as Charlie Bars, double-keyed deadbolts, motion-detector lights, Central-monitored alarm systems, the Club, pepper spray—have become essential purchase for security-conscious, law-abiding, fearful Americans.

Fear did not used to be so commonplace. Crime did not used to be so pervasive. So random. So senseless. So inexplicable. What has caused this violence? There are more questions than answers.

But most of the social scientists who have studied the rising crime rate, including noted criminologist James Q. Wilson, have concluded that the heart of the problem lies in an eroding moral base.

One thing is for certain, Mr. President, someone with a fundamental sense of right and wrong, a shred of regard for human beings, does not drive by playgrounds and spray children with bullets. They do not rob, rape, or mug people.

How do we instill a basic respect and regard for the lives of human beings? This crime bill won't do it. Gun control won't do it. The truth is that government can't do it. Family, church, and society can. They used to.

For those who lack the moral base which might keep them from a life of crime, we must provide incentives. Incentives through penalties. Simply put, we cannot allow crime, to pay. Criminal acts must have legal consequences. Punishment must be swift, certain, and stiff. Even severe.

We need more police officers on patrol. We need to assure the police that they will not risk their lives only to see criminals turned loose. We need more prisons to hold the violent criminals that these police are going to arrest, if we are to make stiffer crime sentences a reality rather than a joke. These measures are essential. Are they the solution? Not entirely. But they are necessary to restore some semblance of order in our country.

Let me say, Mr. President, that I would like to commend the managers of the crime bill. Theirs is no easy task. Every Senator has strong personal views on the issue, many potential amendments, and constituents demanding action. The managers are trying to minimize partisan bickering, maneuvering, and amendments which would jeopardize passage of the crime package. I applaud their efforts.

Last week, unfortunately, the crime debate took a detour. A gun control detour.

However strongly the proponents of gun control may feel about their cause, they are aware that gun control amendments will, at the least, slow the anticrime bill down. It could stop it altogether in the Senate. It certainly stopped it in its tracks last week.

There is no reason that gun control must be debated on this bill. The principal sponsors of the assault rifle ban amendment are Members of the majority party. Their party controls the agenda. Their party controls the White House. Their party controls whether a single-issue gun control bill can be brought before the Senate.

Mr. President, the chairman and ranking member of the Judiciary Committee rightly sought to debate gun control on a separate track from the crime bill. These two Senators may be on different sides of the issue, but they agreed that the contentious, emotional tenor of the gun control debate was best kept separate from the anticrime measure.

In the interest of passing a crime bill with strong, bipartisan provisions on prisons, police officers, and tougher sentences, Republicans were even willing to handle habeas corpus on a different track rather than bog the Senate down in controversy—apparently to no avail. Gun control proponents seem to have decided that they just cannot wait. They have taken it upon themselves to jeopardize the entire crime bill.

Mr. President, with all due respect to the motivations of gun control proponents, if any members of the Crips and the Bloods gangs stumbled upon this gun control debate while they were flipping through the channels on their stolen TV's—they'd howl with laughter.

These gang members who are doing the drive-by shootings, who are executing people for $20, or a sliver of urban territory, will not be impeded by this bill. This bill will merely add to the cost of conducting their sick business. It will drive up the cost of some guns, make them even more of a status symbol. Thugs will have to mug even more people so they can afford the guns whose price will be inflated by this bill. The newly contraband guns.

Let's be realistic, Mr. President: Urban terrorists like the Crips and Bloods will not be deterred, nor impeded, by gun control. Criminal gangs, many of whom deal in illegal drugs, will have no difficulty getting access to illegal guns. The deranged individuals who were cited last week will accomplish their twisted objectives. Only law-abiding citizens will be denied the right to protect themselves by owning the gun of their choice.

We have heard a lot of heart-rendering accounts of killings in the course of this debate. We all feel for the victims. The terror, pain, the trauma, is almost unimaginable. But no Senator, Mr. President, no Senator is unique in his or her outrage. Gun control proponents do not have a monopoly on compassion.

The truth is that the assault rifle ban passed because it was PC. Clearly, PC does not stand for political courage. PC, as we have come to know it, stands for politically correct. And, in this instance, politically convenient.

The assault rifle amendment offered by the Senator from California is interesting in the way it deals with the inconvenience of the second amendment. Proponents of an assault rifle ban have found that assault rifle is not definable as a category of weapons. Assault rifles cannot be banned as a class of weapons because they are not definable as a class. So this amendment bans brand names and model names.

What my colleagues should take note of, Mr. President, is appendix A of the amendment. Appendix A lists the firearms that the Senate will graciously allow law-abiding Americans to own. As a sop to all those decent, taxpaying gun owners, the amendment includes 13 pages listing the firearms that law-abiding citizens may own. A total of 650 weapons, we were told. How generous.

The second amendment of the U.S. Constitution has come down to this: 13 pages in a Senate amendment which few people have read that is supposed to appease those law-abiding Americans who have the audacity to feel they have a right to own guns. A right to defend themselves with firearms. A right to hunt. A right to target practice. A right to shoot beer cans, if they so choose. Beer cans—such an uncouth image that projects. Perhaps if more people used old Evian Water bottles for target practice, gunowners would get more respect around here.

And we are not talking about a privilege of citizenship here, or even a civil right; we are talking about a constitutional right enshrined in one of mankind's most important documents by the Founders of this Nation. Yet with this amendment, we have reduced a constitutional right to a 13-page itemized shopping list. It certainly raises the question whether other portions of the Bill of Rights might be open to the same treatment.

Mr. President, assault rifles present sort of an "I-know-it-when-I-see-it" situation just like the pornography issue does. No one can define an assault rifle—but they know one when they see one. They are black and they have big banana clips. They are ugly and crude looking. Just by looking at them, you can tell they're not nice guns. Oh, and they are used a lot in the movies.

Speaking of the movies, Mr. President, a lot of people, including learned social scientists and Senators, think violence in the movies and television is a bigger problem than assault rifles. Using the Feinstein amendment as a model, perhaps we can refine the first amendment's free speech protections. After all, the Nation's Founders could not have conceived of movies or television when they wrote the first amendment. They probably were not thinking about "The Terminator" or "Robocop 3." And there is no question they did not anticipate circa 1990's pornography when they penned the first amendment of the Constitution.

So why don't we just ban pornography? Period. We can ban violence in the media. Period. We know it when we see it, but it is difficult to define, so we could just list the movies and shows to be banned. "The Taming of Rebecca" ought to be on that list; it's been implicated in several serial rape-murders in Delaware. But that task is cumbersome, so perhaps it would be easier to just list those TV shows and movies that we will generously allow Americans to view—such as "The Brady Bunch," "The Waltons," "The Sound of Music."

Speaking of music, we are all familiar with the controversy surrounding so-called rap music, songs that advocate killing police officers, wholesale killing of citizens, riots. Perhaps we should carefully regulate what music citizens can produce and listen to—particularly young people.

Again using the Senator from California's amendment as a guide, we could ban music which advocates violent crime. We could ban music which applauds the murder of police officers or violence against women.

Using the assault rifle amendment, rationale, we would seek to assure people they will have at least some music to listen to: Lawrence Welk, certainly. Anything by Frank Sinatra, except for "Guys and Dolls," which might promote street gangs. Classical music, of course; but not any of Verdi's operas: they're too violent.

Obviously, I am being facetious. But this is where we end up when we start reducing constitutionality rights down to mere shopping lists. If we can whittle the right to bear arms down to a list of congressionally approved guns, then surely we can whittle the right of free speech down to a list of congressionally approved topics, and the right to freedom of worship down to a list of congressionally approved religions.

The assault rifle amendment proposed by the Senator from California is a troubling constitutional precedent—one which fails to justify itself in terms of any realistic impact on deterring violent crime. For those reasons, I feel strongly compelled to oppose it.

Finally, Mr. President, we should maintain some perspective on just how much we can accomplish with any crime bill. Even with billions of dollars behind it, this crime package will not have any discernible effect on the crime rate any time soon.

When the President signs a crime bill at 1600 Pennsylvania Avenue Northwest, citizens at 1600 Pennsylvania Avenue Southeast may applaud, but they still will have to duck bullets for the foreseeable future. That is why it is imperative that a crime package pass as soon as possible so that prison construction can begin, police officers can be hired and trained, the criminal justice system can start using the tools we have provided, and citizens can have some hope that criminals will not have carte blanche in America.

We would greatly strengthen the U.S. Criminal Code with this bill, but our anticrime efforts must not end with this debate. As a nation, we must emphasize the moral code as well if we are to achieve and sustain any long-term victory in the war on crime. The U.S. Criminal Code tells what is illegal. A moral code should tell people what is right and wrong. The definitive answer to the crime problem cannot be found within the Senate. But we can get this country pointed in the right direction. And we can save some lives.

Mr. KOHL. Mr. President, violent crime in America is not just escalating. It has exploded. From our inner cities to our rural communities it is all the same. A world of threats and brutality and death. Our citizens are tired of living in fear, and they want Congress to do something about it. Because I believe S. 1607, our omnibus anticrime proposal, begins to move us in the right direction, I rise today to support it. And I rise to commend Chairman BIDEN for his diligent, ceaseless work on this measure.

During the half-hour I have waited on the floor to speak, 90 violent crimes, 60 aggravated assaults, 6 rapes and 2 deaths by gunshot are likely to take place. And the national statistics on youth violence are even more disturbing. In 1984, a total of 1,134 juveniles

were arrested for murder. But by last year, however, that number had more than doubled—to 2,829. According to the Justice Department, the vast majority of these murders were committed with firearms, and most were committed with handguns.

Wisconsin's increase in crime was even worse: For example, the number of robberies committed in my State virtually doubled in the last 10 years, and we went from 12 juvenile murder arrests in 1982 to 94 in 1992. That is not just unacceptable. It is unconscionable.

This is not the kind of world that our citizens deserve. It is not the kind of world that our children should grow up in. But it is one that we can change. Not easily. Not quickly. Not painlessly. Not with a single simple solution. But we can change it.

Mr. President, the most important step this bill takes is to provide more resources to the people on the front lines—State and local governments. It would authorize more than $20 billion over 6 years to help States hire 100,000 more police officers. That works out to about 2,000 more police walking the beat in Wisconsin. It would fund new State drug courts so that repeat offenders will be tested, treated, and cured or jailed. And it would allow States to create more boot camps for young, nonviolent offenders. Through promising programs like these, we can catch some of these young lawbreakers before they become hardened criminals.

Beyond this, Mr. President, let me talk briefly about a few provisions that I helped author. The firearms theft section will allow the Federal Government to go after criminals who steal firearms and sell them across State lines. The community partnerships section will empower communities to come together to combat substance abuse and take drugs off the street. And the provisions targeting gang activity provide a balanced approach by attacking juvenile crime from both ends—punishment and prevention. They create new Federal penalties for violent crime by gang members and direct more money to States for their own antigang efforts. I can't tell you how critical these funds will be to police chiefs, principals, and parents in cities and towns across Wisconsin.

There are some provisions I am not comfortable with, Mr. President. And there are other areas where the bill needed strengthening. For example, it needed to do more to combat the deadly mix of kids and handguns, so I am pleased my Youth Handgun Safety Act was accepted as an amendment to the crime bill. My proposal would make it a Federal crime to sell or give a handgun to a minor under the age of 18, and for a minor to possess a handgun under most circumstances. The measure is supported by President Clinton, the FOP, and Sarah Brady. And since even the NRA says it is supportive, I am certain it will ultimately become law.

But because I believe that this omnibus legislation on balance does more good than harm, I will support it.

Let me conclude by stating the obvious: There are many causes for our epidemic of violence; and we need many different initiatives to solve it. But something has got to be done. We need to pass the types of measures that we are debating today and we need to pass the Brady bill.

Because unless we act now, the future we are creating is one that too many of our kids will not live to see. And it will also be a future we will not want to live in.

SUPPORTING BROWN AMENDMENT INCLUDED IN MANAGERS AMENDMENT.

Mr. LOTT. Mr. President. Federal Prison Industries [FPI] was developed by a wise Congress in 1934, almost 60 years ago. This program is time-tested and, according to every study of its effectiveness, works well. FPI puts prisoners to work to make products that can only be sold to other Federal agencies. As a result, FPI products do not find their way into the marketplace nor do they compete with the labors of honest working men and women in the commerce of our Nation. This program does not cost the taxpayer a single cent and on occasion has returned money to the Treasury.

Over the last several years, Federal Prison Industries has been buffeted by attacks from some who claim that the sale of prison made products to Federal agencies is an infringement on the rights of American working men and women. As a consequence, FPI has been hesitant in expanding prisoner work programs. With growing prison populations, FPI must continue to develop in an acceptably balanced manner.

The Brown amendment reaffirms the basic principle upon which FPI was established and seeks to continue this success in the future. If FPI is to continue to succeed in the future as prison populations grow, its program must be allowed to expand. Senator BROWN's amendment is a reasonable beginning which reiterates the view that all able-bodied prison inmates should work.

The Brown amendment establishes a goal of full Federal prison inmate employment. In order to meet this goal, this amendment requires the Attorney General to submit a report to Congress no later than March 31, 1994, which describes a strategy for employing more Federal prison inmates. In preparing the report, the Attorney General should consult with experts from within the administration, representatives of the private sector and from labor.

The report shall contain a review of existing lines of business of the Federal Prison Industries, consider the final report of the Summit of Federal Prison Industries—June 1992–July 1993 including, but not limited to, its findings and recommendations—and make recommendations for legislation and changes in existing law which may be necessary for the Federal Prison Industries to employ more Federal prison inmates. Finally, the report shall focus on the following: First, the creation of new job opportunities for Federal prison inmates; second, the degree to which any expansion of lines of business of the Federal Prison Industries may negatively impact the private sector or displace domestic labor; and third, the degree to which opportunities for partnership between FPI and small business can be fostered.

The chairman of the Senate Judiciary Committee has promised to hold hearings on the Attorney General's report after it is submitted. In addition, he has expressed a commitment to tackle the tough problems associated with rising prison populations and the necessity of work programs for able-bodied Federal inmates. I support Senator BROWN's efforts as well as the chairman in this area and I support this provision.

JUVENILE GANGS AND ASSISTED HOUSING

Mr. LAUTENBERG. Mr. President, I am very pleased that this amendment includes a provision I authored to address the serious problem of juvenile gangs and juvenile drug crime in federally subsidized housing projects.

Mr. President, the bill before us includes a grant program designed to address the problem of juvenile crime. Under that program, grants may be used for a variety of purposes, including efforts to reduce juvenile drug and gang-related activity in public housing projects.

My amendment expands those provisions to include programs to eliminate this kind of juvenile crime in privately owned, federally assisted low-income housing, such as section 8 projects. Under the amendment, funds could be used for a wide variety of enforcement and prevention initiatives, including youth sports, girls' and boys' clubs, Scout troops, and little leagues.

Mr. President, last year a resident of a Newark, NJ, assisted housing project came to my office, along with three managers of assisted housing in my State. They described life in a housing project where violence is routine, where children are afraid to leave their apartments at night, and where residents must deal with gunfire and drug dealing on a daily basis. The picture they painted, Mr. President, was of a nightmare come to life. Of housing that had deteriorated into a battlefield; an occupied territory ruled by drug dealers and armed criminals.

It's an absolutely outrageous situation, Mr. President, and one that a great country like ours must never tolerate.

Mr. President, when most people think of drug-related crime in subsidized housing, they think of public

housing. But the problems in privately owned, federally assisted housing are also severe. In fact, it is not unusual for a section 8 project to exist immediately adjacent to a public housing project, and for gangs and drug dealers to operate out of both premises.

Mr. President, the owners and managers of assisted housing, in many cases public housing authorities themselves, are responsible for providing safe and secure housing for their residents. Yet many are faced with an exploding crime problem for which they are ill-equipped to address. Most are doing their best to cope. But too often, they are overwhelmed. And it's the residents who suffer.

Mr. President, we have a responsibility to do what we can to ensure that residents in federally subsidized housing, whether public housing or assisted housing, are freed from the grip of youth gangs and drug dealers. And it's not just the residents who must suffer with these criminals. It's also the millions of Americans who live near the projects or who travel through surrounding areas.

In fact, the ripple effects of youth gangs and drug dealers extend far beyond the projects themselves. By undermining hopes for economic growth and revitalization, these criminals are creating enormous social and fiscal problems for many of our cities and municipalities.

Mr. President, I am under no illusion that this antigang grant program will solve all these problems. But it's a positive and important stop in the right direction. And I think it makes sense to expand the program to include assisted housing, where much juvenile gang and drug activity is concentrated. The result should be better lives for residents, and substantially improved conditions in surrounding communities.

I thank both the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking member, Senator HATCH, for their cooperation in securing passage of this amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I ask unanimous consent that I be permitted to address the Senate on the bill for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. There are 12 minutes and 54 seconds remaining.

Mr. MITCHELL. No, Madam President, I asked unanimous consent for an additional 15 minutes.

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

Mr. MITCHELL. Madam President, the crime bill before the Senate today differs in significant respects from earlier attempts by the Federal Government to deal with criminal violence.

For the first time in many years, it provides resources directly to the State and local authorities where almost all of those who commit acts of criminal violence are apprehended and prosecuted. This is a bill that directs the resources to where the problem is.

This bill includes the violent crime reduction trust fund, financed by reducing the number of Federal employees, to direct $22 billion exclusively to protecting law-abiding Americans against the criminals who prey on them.

The bill will provide the money to put 100,000 more police on the streets, walking the beat, getting to know neighborhoods and giving residents a sense of security and a place to turn when they see criminal violence occur. Too many city neighborhoods today know the police only as a response force, which arrives in squad cars after a shooting occurs.

The addition of 100,000 more officers means that police can go to court and testify when needed without leaving a beat unprotected. It will give residents the sense of security that their personal safety is a national priority that is being addressed.

The bill provides $3 billion over 5 years to regional consortiums of States to build prisons for housing the growing Federal and State criminal population. States now house almost a million felons, double the number since 1985, even though overall crime rates have fallen.

The fiscal toll on State residents is staggering. States spend a total of more than $20 billion a year keeping these felons housed, money that is not available for schools, for health care, for local street repair and the many other things local residents want from their local government.

The bill provides $3 billion over 5 years to take existing Federal facilities, including military facilities, and turn them into boot camps for the incarceration of first-time nonviolent drug offenders, so we can finally stop the circular process of jailing addicts and releasing other addicts back onto the city streets to commit more crimes.

About 160,000 of those in State prisons today are first-time nonviolent offenders. If they can be treated in boot camps, they open up a substantial number of prison beds for more serious, violence-prone felons at half the cost.

It is estimated that each addict commits 175 crimes a year to feed his addiction. If half of boot camp graduates don't return to addictive lifestyles, we will have saved enormous amounts of State, local and Federal resources in reindicting, reprosecuting and reimprisoning these people. Boot camps do not perform magic, but they can make a substantial difference at much less cost than regular prisons.

The bill provides $1.2 billion over 5 years for drug courts, an approach that seeks to cure addicts of their addiction and return them to society as persons who have some incentive to find and keep honest work and make decent lives for themselves.

The Miami Drug Court Program has a recidivism rate of just eleven percent, meaning that 89 percent of offenders who go through the drug court procedures do not revert to a criminal life. That is a major improvement in a system where regular courts and prisons see at least half of first-time offenders return as second- and third-time losers.

The bill provides funding for the Police Corps, a new program which will give inner city and other youth the ability to go to college and repay their tuition by serving in local law enforcement. It is a potentially powerful new tool to give inner city youths role models who are not drug dealers and pimps. In addition, Police Corps when fully operational will mean many more police on the streets and on the beat.

Police Corps can be a way to turn our inner cities around from the inside out, not by bringing in outside law enforcement but by empowering inner city residents themselves to take control of their own neighborhoods.

The bill funds the Violence Against Women Act, legislation that will substantially augment the ability of courts to deal with domestic violence and will give communities the resources to take preventive action in areas where crimes against women are endemic—bus stations, public transit areas, college campuses.

It will give States the resources they need to slow and hopefully reverse the domestic violence too often associated with family breakdown and separation and which too often threatens the safety of children as well as women.

The bill provides $500 million for the secure incarceration of violent and dangerous juveniles. Current law prohibits imprisoning juveniles with adults, but the reluctance or inability of States to invest in secure juvenile facilities has left too many of our Nation's neighborhoods a prey to violent juveniles whose activities pose a direct risk of serious injury to many of their neighbors.

In short, for the first time in many years, this crime bill seeks to directly address the violent crime that makes too many Americans prisoners in their own homes.

That was the Biden bill when it was introduced, and a bill on which the distinguished chairman of the Judiciary Committee, Senator BIDEN, worked for so long and so hard and led the way with the cooperation of the Senator from Utah, Senator HATCH.

Unfortunately, during debate in the Senate, provisions were added to this bill which make it a much less attractive bill. So now the bill contains provisions which I strongly oppose as well as provisions which I strongly favor.

In its initial version, and added on in the Senate, the bill contains new Federal death penalties. I oppose the death penalty, and have consistently opposed efforts to expand it. In addition, among the many amendments offered there were several which were accepted by the Senate with which I am in serious disagreement, and I want to mention just a few of them.

I opposed the amendment to extend the death penalty to cover carjackings which result in death, and homicide involving firearms which have crossed State borders. The federalization of homicides—that is what this is, the federalization of homicides—gives no meaningful new assistance to State and local police who apprehend murderers, no meaningful assistance to State courts where the overwhelming majority of homicides are prosecuted.

I voted against the amendment to make evidence of prior commission of alleged offenses admissible at certain trials. The amendment would fundamentally alter an established rule of evidence which permits the admission of prior similar act evidence to establish motive, opportunity, intent, preparation, plan, knowledge, identity, or mistake or accident. But the amendment would permit the introduction of any prior similar act testimony, proven or not.

The claim that rape and molestation cases are difficult to prosecute unless the prosecution's case can be buttressed by allegations of similar past acts is a claim that can be made about the prosecution of any criminal act. It is always easier to prosecute and gain convictions when judges and juries are given prejudicial information about a defendant. But the point of our system of justice is not to introduce prejudice into the fact-finding process; it is exactly to the reverse. The goal of our system of justice is to suppress personal prejudice in favor of the facts of the case, proven beyond a reasonable doubt.

The amendment would permit the simple allegation that a defendant had committed a similar act in the past, even if that act had never been charged as a crime, even if no complaint had ever been filed, to be used in evidence to judge guilt.

The amendment does not limit prior similar act testimony to prior convictions. It permits, in effect, allegations merely made and never proven, indeed allegations which have been disproven to nonetheless be brought up and used against an accused person. I very much regret that a majority of the Senate approved this change in the law.

I voted to table the Helms amendment, which introduces a novel and I believe, unconstitutional factor into our judicial system. It seeks to limit the ability of the Federal courts to fashion a remedy when the courts find an unconstitutional infringement on a protected right.

In no instance has the Congress sought to dictate to the judiciary in advance how courts may construct remedies or to place limits on the kinds of remedies they may construct when the underlying subject matters falls within the courts' jurisdiction.

The immediate target of the amendment was prison overcrowding. But the Supreme Court has already ruled to limit the ability of lower Federal courts to find an eighth amendment violation based on overcrowding alone. So the amendment will do absolutely nothing to affect prison overcrowding, one way or the other. What the amendment will do is impermissibly intrude on the right of the courts to find a constitutional violation and to fashion a remedy for that violation.

The men who wrote the American Constitution would be amazed at the proposition that the Congress can tell the courts in advance what is or is not constitutional.

I also voted against funding to encourage State efforts to prosecute violent juvenile offenders age 13 and over as adults. I also opposed the effort to federalize virtually all gang violence. I do not believe the answer to local crime is to shift its prosecution into Federal courts.

I was, however, in the minority on those votes, and the majority of the Senate saw fit to approve them. As a result, the crime bill includes provisions which I do not favor.

I have been both a State prosecutor, and a Federal prosecutor. I can say that this Chamber is filled with the myth—the myth—that you can do something about violent crime by simply declaring it to be a Federal crime as opposed to a State crime. Yet, we have heard that over and over here in the debate on this bill in what is clearly a political effort to appear to be doing something about crime by suggesting that simply denominating a criminal act a Federal offense, as opposed to a State offense, is going to solve the problem. It will do no such thing.

Mr. President, I was in the minority on those votes. And the majority of the Senate saw fit to approve them. I accept that result even though I disagree with it. But as a consequence, the bill now includes many provisions which I do not favor. But I do want to say that the bill as a whole—as a whole—I believe deserves support.

That is how we must vote on it, as we often do, on an entire bill.

So despite my strong reservations about the increasing tendency to federalize criminal offenses and to do so for what are obviously political purposes, I intend to vote for the bill because I think the positive programs in it are the most effective steps we have taken in many years to address the central issue of violent crime, and that is public safety.

The one thing citizens have a right to demand in return for their tax dollars is the right of personal security against random violence.

When our local governments and our States fail to provide that protection, as in too many cases they are failing today, it is not surprising that citizens are alienated.

The crime bill before us today seeks to address that fact with resources directed to the principal causes of public fear: By putting the most violent felons into secure confinement, by policing our communities more intensively, by dealing with the addictions that fuel so many criminal acts, this bill addresses the public demand for a swift response.

This bill addresses the public demand for response. The focus on Federal penalties in this bill obscures the fact that, in America, fighting crime is a State and local function and a State and local responsibility. More than 95 percent of all crimes are prosecuted under State law. The relative size of the felon population tells the whole story.

Since 1925, with very rare exceptions in a brief period in the 1940's, the Federal prison population has rarely been more than 10 percent of all prisoners. At present, the Federal prison population is about 6 percent of the total felon population of the States. Federal penalties affecting 6 percent of the felon population are not going to have much effect on the safety of our city streets. Very few Americans are at risk from persons who commit Federal felonies on Indian reservations or Federal lands. That is all that is covered by these Federal laws. Americans are principally at risk from criminals who prey on the streets of our cities.

Crime exists in all society. The question we, as Americans, face is why violent crime has become an epidemic in so many of our communities. The harsh reality today is that no one has the complete answer. There are theories on both sides about parental responsibility, lack of caring, culturally induced violence, and a host of other reasons. But no one has the certain answer. And that lack has for too many years resulted in simple-minded calls from one side for harsher penalties, and from the other side for a greater understanding of social breakdown. It is clear that neither harsh penalties alone nor social programs alone are the answer.

Let us be clear about one thing: Crime is not just caused by poverty. There are millions of Americans who are materially poor, but whose sense of self respect and pride do not even encompass the idea that they might become criminals to improve their place in life. It is a gross insult to millions and millions of low-income people in this country to suggest that not having money alone causes persons to become

criminals. It does not. Most people who are poor are honorable, decent, and law abiding.

Violence is not cured by stricter sanctions alone either. The hardliners cannot come up with any credible evidence that their approach has any effect. You can just look at the statistics of the States in which criminal sanctions are more severe than others, and there is no evidence at all that violence is diminished as a result of that.

This crime bill, because it directs resources for combating criminal violence to the State and local level where most such violence occurs, is the first common sense response to violence that this Senate has approved in many decades. Therefore, this bill deserves to be approved, despite its imperfections. I urge my colleagues to give it their support.

I, again, commend the chairman of the Judiciary Committee, Senator BIDEN, whose outstanding leadership is the single most important reason why we are about to vote this crime bill today. As I said earlier, if we had just kept Senator BIDEN's bill and not added on these onerous and, in many cases, grandstanding provisions that do not do anything about crime and actually dilute the effectiveness of the original Biden bill, then I think we would be better off. I hope that the final product we get here does not include many of these provisions now added in the bill.

Mr. President, I conclude as I began, by thanking Senator BIDEN and by thanking Senator HATCH for their leadership on this matter. We do not agree on every one of these amendments or every one of these issues, but I think we do agree that there is no more serious problem in the country today, and we must address it. Overall, this bill addresses it in a very important way.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given enough time to make my concluding remarks, which I estimate to be about 15 minutes.

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

Mr. HATCH. Mr. President, I thank the majority leader for a cogent and very expressive statement about his position on this bill and for his willingness to support this bill, even though he differs with some provisions. I have to say that I differ with some provisions, too. But, on the whole, this is a terrific bill. I thank my colleague from Delaware for his leadership in this matter, along with other members of the Judiciary Committee. I particularly want to compliment Senator BIDEN because he has been willing to work on a lot of these provisions that are now in this bill that were not in his original bill. Still, he had constructed an original bill that had many salient, good points in it. He has been an excellent floor manager. I have particularly enjoyed working side by side with him, and I think, together, this Biden-Hatch bill gives us a chance of having one of the finest crimes bills in the history of this country. Certainly, I think it is a historic anticrime bill. I think it is the finest one that has ever come down the pike. I hope we can hold on to these provisions as we go through conference. I intend to do so.

The crime bill we are now sending to conference with the House of Representatives contains many tough-on-crime provisions originating from this side of the aisle. Many of these provisions are of great benefit to the people of my State of Utah and, I believe, every State in the Union.

There are significant authorizations for Federal and State prison expansion, which originated on this side of the aisle. There is a funding mechanism that originated from this side of the aisle, although that funding mechanism would never have worked without the support of the distinguished Senator from West Virginia. So I give him credit for it. Working with Chairman BIDEN, I, along with Senators PRESSLER and KEMPTHORNE, added a comprehensive program to address rural crime. I commend my colleague from Delaware for helping on this. Senators DOLE, BROWN, THURMOND, and I added a very tough antigang provision.

I do not agree with the distinguished majority leader that that federalizes gang activity. It just allows the Federal Government to help with regard to it. Right now, State and local governments in rural areas are having all kinds of trouble with gang activity that resources of the Federal Government can help with.

As a result of the efforts on this side of Senators GRAMM, D'AMATO, myself, and others, there are tough mandatory minimum penalties for violent criminals. At the same time, Federal judges are given some flexibility for a small group of first-time offenders who are not violent. We worked out an enforceable Federal death penalty provision with Chairman BIDEN. Senator DOLE had added a provision on rules of evidence for sexual assault and child molestation cases. Senator LOTT added a provision imposing a mandatory life sentence for persons convicted of a third violent penalty. Senators SMITH and SIMPSON added a strong provision aimed at protecting this country from alien terrorists. Senator D'AMATO added a provision providing for the death penalty for major drug traffickers—a provision apparently opposed by this administration.

The list of improvements goes on and on. The Hatch-Biden-Moseley-Braun-Bryan Senior Citizens Against Telemarketing Fraud is now part of this bill. We have worked closely with Senators BRYAN and MCCAIN, who were leaders on this subject and, I believe, contributed significantly to this.

We add money for Drug Enforcement Agents, the FBI, and Federal prosecutors. An amendment of mine, accepted by the chairman, provides funds to beef up the FBI's training facilities, which are used by law enforcement officers from every State and all over the world. The amendment assists the serial crime unit of the FBI. That amendment also provides funding to State and local law enforcement agencies for automation and technological improvements.

Thanks to the leadership of Senator GRASSLEY, the administration woke up and apparently will send us legislation seeking to toughen an anti-pornography statute weakened by its own interpretation of the current statute, which I think is adequate—the current statute. The better way to handle this is for the Justice Department to return to the interpretation of that statute as advanced by its Republican predecessor. There are other provisions in this bill that Members on this side added or significantly contributed to.

I want to make two overriding points at this time. First, the American people need to keep the pressure on Congress to carry the tough provisions of this bill through the conference with the House of Representatives. After all, there are many who believe that the House of Representatives has shown in the past that it has little interest in passing a tough anticrime bill. To date, it has only passed a handful of spending provision similar to those contained in the original Biden bill, which has now been changed.

In the last Congress, my friends on the other side of the aisle in both Houses controlled the conference, as they will this conference. In many cases, when there were competing provisions from the two bodies, the conference took the weakest provision available to them. If this happens again, the American people will be denied the benefits of a tough crime bill and they will hear about it. I will see that they do. I hope the President will help us avoid this result this time around.

Second, assuming these tough provisions survive the conference, the American people must keep the pressure on this administration to enforce and fund them. We have given the President many funding programs to assist law enforcement agencies, including some the administration preferred not be in the bill. The American people will not stand for the administration's failure to fund this bill's prison expansion, additional Federal law enforcement authorizations, the rural crime provisions, the telemarketing fraud provisions, the antigang provisions. Together with the tough, new Republican provisions creating new Federal gang offenses, and similar provisions provided under this bill, this crime bill will have a significant impact on our Nation's crime problem.

I think both sides can take a great deal of credit for this bill. Both sides deserve a great deal of credit for this bill. Without the help of Senators on both sides, we would not be where we are today. I make that clear.

I would add that the President campaigned on a platform that included adding 100,000 police officers to the streets. The Senate has given him his wish. Over the next few years, the American people will get to see whether this administration delivers on this promise. I hope that it does. In fact I am going to insist that it do that. I pray with all my heart that the President will do it as well.

And make no mistake about it, the other single largest crime-fighting provision in the bill is the $6 billion allocated for Federal regional prisons and for construction and operation of State prisons and boot camps. This provision is a Republican provision for which I and several Senators on this side pushed hard and fought for for a long time—in particular, Senator MACK of Florida and the Republican leader, Senator DOLE, and Senator BIDEN has certainly pushed hard for this and has been very cooperative, and frankly everyone knows I have from the beginning.

Let me describe the origins of this bill's now bipartisan prison provision. The Dole Hatch Republican Neighborhood Security Act, introduced in August, provided a total of $3 billion for prisons. Moreover, the Republican bill not only spend $2 billion of those dollars to create 10 regional prisons in which States could house violent criminals; our provision conditioned a State's ability to utilize this new Federal prison space on the adoption of truth-in-sentencing, wherein State prisoners serve at least 85 percent of their sentences and the States reform their bail laws. The Republican bill also provided $1 billion to assist States in the construction and operation of new prisons.

The administration first supported a bill which contained the paltry sum of $300 million for boot camps, an alternative sanction, and Federal prisons for drug offenders. As late as the week when we took up the crime bill, when the distinguished chairman of the committee, Senator BIDEN, introduced S 1607, this figure was increased to $2 billion, and I commend him for being able to do that.

On the day after the Senate took up the crime bill, I offered an amendment on behalf of myself, and Senators MACK and DOLE, which provided a total of $6 billion for prisons: $3 billion for the Dole-Hatch-Mack Federal regional prisons program and $3 billion for the State construction and operation of new State prisons, both components of the Republican crime bill with twice our original proposed funding. That could not have happened without my colleague from Delaware and others on both sides of the aisle. Our amendment also contained a funding mechanism so that this prison expansion would be paid for.

Now, the distinguished Senator from West Virginia has come up with an equally good if not better funding mechanism. We are very appreciative of him for that.

This amendment then paved the way for what eventually became the comprehensive Byrd amendment which was eventually added to the bill which I just mentioned. So I am delighted that my friends on the other side of the aisle went along with this provision, and I know they will fight to protect it in conference, and the distinguished majority leader indicated he will.

I also hope they will press the administration to spend this prison construction money. The American people expect no less.

We also responded to the growing plague of violent crime in rural America which, in many respects, exceeds that of our larger cities. Utah has a growing problem of youth gangs, which are coming to Salt Lake City from California and bringing their drug and crime activity with them. According to Salt Lake City officials, drive-by shootings are more common and national gangs like the Bloods and the Crips are present.

In an effort to bring greater assistance to rural areas, I offered an amendment along with Senator BIDEN, PRESSLER, and KEMPTHORNE which amends current State and local law enforcement grants programs to authorize an additional $250 million in grants for rural States over 5 years. It also authorized an additional $100 million over 5 years to hire additional DEA agents for drug investigations in rural and urban areas and directs the Attorney General to establish Rural Crime and Drug Enforcement Task Forces in every Federal judicial district that includes significant rural areas. I hope that this important measure, which aids rural areas, will survive conference and that the administration will implement these proposals. I believe that the President will be behind those proposals. They make sense. And the chairman and I are working together in trying to get them.

This bill also beefs up Federal antigang efforts. Senators DOLE and BROWN and I succeeded in attaching this tough antigang measure to this bill over the opposition of some of the other side of the aisle. There are at least 215 identified gangs in the Salt Lake City area with 1,700 members. This growth in gang activity and the drug abuse and violent crime it fosters face cities all across this Nation. The bill now makes it a Federal offense to engage in gang-related crime and subjects gang members to tough mandatory minimum penalties. For example, gang members who recruit others into criminal gangs or engage in criminal conduct shall be subject to a mandatory minimum penalty of 5 years imprisonment. If a gang offense involved attempted murder, the perpetrator faces a mandatory minimum 20 years imprisonment; and, if there is a murder, the gang member faces a possible death sentence.

The Republican gang measure provides $50,000,000 for additional Federal prosecutors who will be assigned to fight gang violence and establishes a $100 million grant program for efforts at the State and local level, and by private not-for-profit anticrime organizations to assist in prevention and enforcement programs aimed at fighting juvenile gangs. I can think of no area where there is a greater Federal interest than in assisting the States prosecute and incarcerate violent offenders, and I will insist that this measure survive conference and that it be funded.

A bipartisan measure which was added to this bill is the Violence Against Women Act. Senator BIDEN and I, with the assistance of Senator DOLE, have crafted a measure that gives recognition to the fact that violence against women is a national tragedy that warrants some Federal commitment. Despite some misconceptions, this measure does not make every sexual assault or rape a Federal offense. Rather, it recognizes that there is a proper role for the Federal Government in assisting the States in fighting violence against women. For example, the bill provides substantial grants to States to improve their response to sexual assault and domestic violence. In addition, the Violence Against Women Act makes it a Federal offense to cross State lines with the intent to commit violence against a spouse or former intimate partner or to violate the terms of a protection order—interstate stalking. In addition, the bill establishes a civil rights cause of action for crimes of violence motivated by an animus for the victims' gender. This civil rights remedy falls within established Federal jurisdictional principles governing civil rights remedies with its animating principle being a national ideal of equality. I expect that this measure will survive conference. I hope, moreover, that the administration works to fund the important grant programs this bill establishes.

The Senate also adopted the Hatch-Biden telemarketing fraud bill. This act, called SCAMS—the Senior Citizens Against Marketing Scams Act of 1993—authorizes additional Federal law enforcement resources to combat telemarketing fraud. SCAMS also creates a new Federal statute criminalizing telemarketing fraud, and it enhances penalties for these crooked acts when senior citizens are the principal victims.

Continued law enforcement and greater public education can bring about an end to these scams. Passage of this Hatch-Biden measure will help accomplish this goal. I am pleased that it has been incorporated into the crime bill.

(Mrs. MURRAY assumed the chair.)

Mr. HATCH. Finally, I believe I should say a word about the gun control measure added to this bill. As I stated earlier, the time for grandstanding and for feel-good measures that have no effect on controlling crime has long passed. It is my fervent view that a ban on assault weapons will do nothing to stem the tide of criminal violence in this country and that it will do much damage to the rights of law-abiding citizens. It is my hope that this measure will be dropped in conference. It should be. Banning these weapons will have no appreciable effect on the level of violent crime.

Very few legal weapons are used, or even rifles for that matter, in the overall crime of this country. Nevertheless, it is in here. Moreover, gun control strikes at the heart of our constitutionally protected right to keep and bear arms.

In closing, this crime bill is an unprecedented, bipartisan measure. I commend Senator BIDEN, the chairman of the Senate Judiciary Committee, for his leadership and hard work on this matter. Our work has provided the citizens of this Nation with a bill which, for the most part, provides needed assistance to neighborhoods and communities. In my view, this bill will make our Nation's streets safer—provided it is not gutted in conference and provided the administration actually funds its law enforcement programs. I urge my colleagues on the other side of the aisle to stand behind the tough provisions contained in this bill when we sit down with the House. And, I urge the Clinton administration to take a stand in support of these tough provisions and to make it clear that it expects the conference committee to adopt these much needed measures.

Let me personally thank Cynthia Hogan, Cathy Russell, Chris Putala, Demetra Lambros, and the rest of Senator BIDEN'S staff for their extraordinary efforts on this bill.

It has been a pleasure to work with them. They are class people. And I personally very much appreciate them and respect them.

On our side, while there is always danger in leaving out someone deserving of recognition, I would like to acknowledge the help and support of Senator DOLE's staff, especially Jim Whittinghill and Dennis Shea.

And, or course, I would like to offer my heartfelt thanks to my own staff on the Judiciary Committee. Along with staff on the other side, they have been burning the midnight oil over the last several weeks to put the finishing touches on this landmark crime bill. But, more than that, they have been working for months and months to help me develop legislation that will go a long way to making law-abiding Utahns safer in their own homes and communities and, thus, law-abiding Americans everywhere safer.

Manus Cooney, Mark Disler, Sharon Prost, Ed Whelan, Anna and Victor Cabral, Shawn Bentley, and Darrell Panthiere have been advising me on the substance of these provisions; Stacey Vargecko, Jenny Ward, Mike Kennedy, Quin Monson, Kristal Sanford, and Brad Wilson have contributed in various ways, including preparation of many of these materials and fielding hundreds of phone calls.

It takes an incredible amount of work to bring a piece of legislation like this to the Senate floor, and I want to express my deep appreciation to them.

Finally, I would just like to express my regard again, one last time, to my friend and colleague from Delaware, Senator BIDEN. He deserves a lot of credit on this bill. I am certainly lending my name to this in calling it the Biden-Hatch bill, because I believe we have done as good a job as can be done on this floor with the wide diversity of opinion and feeling that we have.

I think we have something here that really is a historic landmark and extremely important. I attribute a great deal of it to the distinguished Senator from Delaware. I want to thank him personally for his efforts in this regard.

Madam President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has 12 minutes 54 seconds.

Mr. BIDEN. Madam President, I ask unanimous consent, in the spirit in which we have been moving, that we add an additional 5 minutes, not taken off my time, to be yielded to the Senator from Massachusetts for purposes of speaking on the bill.

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

The Senator from Massachusetts.

Mr. KERRY. Madam President, thank you very much. I thank the Senator from Delaware. I know that traditionally the managers wrap up, but I was tied up at a markup and I was not able to be here. I appreciate him accommodating me.

I would like to begin, Madam President, by thanking the Senator from Delaware and the Senator from Utah and congratulating both of them on bringing this bill to the point that it is. We are about to, presumably, pass it in the near term, depending on one or two decisions yet to be made.

But I would like to make a couple of comments about this bill, if I can.

At the beginning of the debate, I and some others said that it was really important that we in the Senate, in approaching the crime issue in the crime bill, offer America more than rhetoric; that we do something that is serious and real about crime. I think that we are on the verge of doing a great deal, but we still need to be very careful about what we are promising the American people that this will do.

In the first instance, let me say that I think this bill is indeed what some have called it. It is the most significant and important first step in the effort to do something serious about crime, because we have starved the States, where 95 percent of the battlefield is, over the course of the last years. And this is the first significant input of resources to the State and local governments to help them do something.

But I might also add there has been a sufficient degree of knee spasms and overblown rhetoric in the course of this process, so there has been attached to this bill a series of things, some of which test any theory of constitutionality, and some of which are counterproductive.

It simply does not make sense in some cases to create mandates that are so strict on the courts that they have no ability to meet them without overcrowding worse than it is and in effect doing damage to the effort to put people behind bars for the already existing mandatories and the level of crime that we have. So I hope, when we get into the conference process, that the Senator from Delaware and the Senator from Utah and others will succeed in stripping away some of those counterproductive measures.

It does not make sense for the Federal Government to suddenly be federalizing a whole lot of State crimes that district attorneys and attorneys general would love to prosecute today if only they had the resources. And to suddenly set up an equation where the Federal Government has joint jurisdiction so that a Republican U.S. Attorney can fight with a Democratic Attorney General over who is going to prosecute the crime and get the glory for it is not very productive in a world of law enforcement where you already have extraordinarily tough struggles between the 13 or 14 different agencies that have jurisdiction over one piece of the mosaic or another. So I hope we will pay attention to that.

I also hope that we will not just build monuments to our failures in other parts of society in prisons. We do need more prisons, and I voted for that. But some of those prisons can be modular. Some of those prisons can be temporary use of Federal facilities on our military bases so we take nonviolent, first-time offenders out of the system and open up beds for violent offenders, hoping and praying that, as we turn the curve of violence in this country, we will not need a long-term overhead of prison guards and prisons for the longrun in the Nation if we gain control of our streets and communities.

So we should approach those expenditures sensibly, and I hope that in the course of the conference that will happen.

There is not sufficient money yet for drug treatment, and that is a critical component of our capacity to deal with street violence and to send a message about seriousness.

Finally, Madam President, we really need to not kid ourselves about this bill overall and what is happening in America today. I showed some charts of what is happening in terms of family and illegitimate births in America. The level of illegitimate births, of kids being brought up without families, or with parents who are not home or in abused homes is so high in America today that we are raising sociopaths, kids who have no values, as we have heard on the floor of this Senate in this discussion about whom and for whom this bill does precious little.

And unless we recognize what is happening in our schools and in the unavailability of the sufficient resources necessary to help people to raise kids and deal with some of the value issues, then all we are going to do is start feeding a next generation of these kids, these sociopaths that we have allowed to be raised, into the hands of these new prisons and new police, and we will not have really done much for the long term.

So this is a critical first step in regaining control of communities.

This bill can buy us the opportunity to make those other investments and to make them meaningful as well as to make this bill meaningful. But if we ignore our responsibilities with respect to the kids, with respect to education, with respect to boys and girls clubs, with respect to summer programs and summer jobs, with respect to alternatives for counseling and diversion, then we will simply have created one more large expenditure that is doomed to demand of the American people a new judgment about failure because we did not do the complete job.

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

Mr. KERRY. Madam President, I ask for an additional 30 seconds.

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

Mr. KERRY. I think most of our colleagues here understand that. The real test is going to be whether we change the political equation that we have been working under for the last 12 years where we talk about these issues but fail to come here and really discuss how to provide the resources or the programs to deal with them.

This bill is an extraordinary downpayment on our ability to rebuild community in America. If we will now do the other part of it, the drug treatment dealing with those kids who are born into lack of opportunity and oblivion, if we will deal with the schools and begin to really build community on the foundation that the new police will help to give us, then we can tell America we have done something about crime and about our future.

I yield the floor.

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. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BIDEN. Madam President, I realize I have 12 minutes left, as I understand it, on my time. I ask unanimous consent I be granted such additional time as I will need to finish my statement, which I estimate will be somewhere between 12 and 20 minutes total time.

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

Mr. BIDEN. Madam President, we are finally here. If all goes as I assume it will, this will be the last statement on the crime bill before we move to final passage of this bill.

While I am speaking I am going to ask my staff, as I turn, to give me a list of all the staff members who I should recognize on this effort because at the outset, as the Senator from Utah knows, the amount of work that the staff have put in on this now roughly a 900-page bill that covers over $22 billion of potential expenditures over the next 5 years has been absolutely awesome. I know he agrees. I think it is very important the public understand that these professional people who work with us earn every penny that they get paid.

As a matter of fact, in the case of my staff and that of the Senator from Utah on the Judiciary Committee, the lawyers, professionals who work on our staff, in almost every instance—and speaking for myself, in every instance—they all took pay cuts to come here and take these jobs. This is not a situation where they are here because of the money. They have taken pay cuts to take the jobs. My chief counsel and others—these are women and men of great talent, and I want to make sure before we finally vote on this that I pay particular tribute to them.

Second, before I speak to the bill I might add that—although if you read the Almanac of American Politics or any other document that characterizes the Senators in terms of whether they are liberal, conservative, moderate, good, bad or indifferent, you would find if you were going to put people at opposite ends of the scale ideologically, in most pundit's minds that the Senator from Utah and the Senator from Delaware might be at opposite ends of that scale—the truth of the matter is, we are not.

But also the truth of the matter is that one of the reasons why this democracy of ours works as well as it does is we resolve our differences collegially in this country and in this body. Were we in Bosnia we might be at war. Over here we do not go to war. We trust each other. We work with each other. We fight like the devil with each other on matters of principle and we end up resolving our problems. I have found in my dealings with the Senator from Utah that he is as good as his word and he is a legislator. He wants to get things done.

So I am delighted that this bill has gone from being the Biden crime bill to the Biden-Hatch crime bill. It is good for the Senate and I presumptuously will suggest it is good for the country that people like he and I, who have very different views on a number of things, can come together on something as consequential as this legislation.

I point it out only to reinforce the point I made after the Senator from Texas spoke. We have finally crossed the divide, I think, in this country, in American politics, about the requirements necessary to deal with crime in America. The Senator from Utah is one who feels as strongly about dealing with the root causes of crime as he does about dealing with those who perpetrate crime.

As you heard the majority leader, the Senator from Maine saying, the days of debate are gone where all we talked about were the social conditions that caused crime and others only talked about the need to impose penalties on those who do commit crime. That hopefully is ended. Hopefully, passage of this bill will be the beginning of the end of that era of division in this country, about having a consensus on how to deal with public safety problems in this country—hopefully.

Hopefully, this will be the beginning of a second effort to deal with how we keep young people from getting into the crime stream and into the drug stream. Quite bluntly, that is the part that excites me most about what we are about to do, that we have finally, hopefully, ended the acrimony.

We will disagree and we do disagree. As we say in this body: I associate myself with the remarks of my close friend, the majority leader, Senator MITCHELL, when he pointed out, with the single exception of the death penalty that I happen to support, I agree with everything he had to say. I think the admissibility of evidence that we agreed to here in this body is absolutely outrageous as one of the amendments. The notion that someone, after 800 years of developing evidentiary rules through our English jurisprudential system, and having done it because it works and it works for one purpose—the rules of evidence have developed over these last 800 years in

order to figure out how to best get at the truth and eliminate prejudicial material in a courtroom since prejudicial material denies you the prospect of getting at the truth or diminishes the prospect of getting at the truth—we here on the floor of the U.S. Senate blithely voted, overwhelmingly, I might add, to allow someone to walk into a courtroom in the midst of a trial for a particular crime and say, without ever having raised the issue before—it could be 2 years old, 20 years old, 50 years old—walk in with a prosecutor and say: By the way, the defendant did that to me—10, 12, 15 years ago.

You would be able to say why did you not say something 10, 12, 15 years ago? These are violent acts, violent crimes. This not harassment. These are violent crimes.

Obviously if you are in a jury box and you are listening to testimony from somebody saying John Doe did such and such to me and then they bring in a parade of people who never raised charges before, for which you have never been convicted—no one in his or her right mind could suggest that is not prejudicial. It is an outrage that we would pass something like that. I am chalking it off to the fact that people are busy here, that this is a 900-page bill, that 6,000 things are going on at the same time, and no one had the focus on it. Because I would be dumbfounded, and I refuse to believe that a majority of this body actually consciously thought this through. I hope that was not the case. I refuse to believe it.

Also, yesterday we decided that we are better able to determine what the eighth amendment means than the Supreme Court of the United States of America, when we did the prison cap amendment. Think about what we did. We fought for 15 years about court stripping and then in one fell swoop, with very little debate, we walk in here and a majority of Senators vote to strip the Supreme Court of the United States and all of the U.S. courts of the right to determine whether the eighth amendment has been violated.

If that is true, let me point out, we can do that with the fourteenth amendment, the first amendment, the second amendment, the fifth amendment. We can just say, "Hey, by the way, Supreme Court, the way you've ruled on the fourteenth amendment, we don't think is accurate, so you can't get to rule on it anymore. We think we know."

It is preposterous. It passed, though.

We also have in here a trend that disturbs me greatly that was added to the original Biden bill. All these things have been added to the underlying, original Biden bill. And that is we federalize everything that walks, talks or moves. My Lord, if it occurs, it must be a Federal problem. If it occurs, we must federally deal with it. A kid I went to grade school with used to say, "You just stood that on its head, boy." We just stood on its head the 200-some-year notion of federalism.

Montesquieu had a pretty good idea a long time ago, picked up by the Founding Fathers: The notion of a separated Government so power could not be concentrated in any one branch. It is to prevent abuse. It is called the notion of federalism. Maybe I am too much a product of teaching a course on federalism in law school, maybe I know too much about the issue. But it astounds me that we have decided to federalize everything and the people who, in fact, argue most on the floor to federalize, crimes and punishments and alternatives, are the people who, in my first 15 years in the Senate, were the States' righters, the people who were saying, "The State of such-and-such cannot be"—now they are saying, "Let's federalize it, make it a Federal crime." So much for States' rights.

The other thing that disturbs me that was added to the original Biden bill by amendments—and I hope the House does not see it the same way—is I have heard speech after speech after speech on this floor, particularly if a National Governors Conference is in town, from my Republican friends particularly, but also my Democratic friends, about "no more mandates to the States. We are not going to mandate the States to do anything anymore."

As a matter of fact, just before this crime bill was up—I do not know this for certain—but I am willing to bet if you go back and look at the Congressional RECORD for the previous 3 or 4 weeks, you can probably find 20 speeches on Federal mandates: "No more Federal mandates. Can't do that to the States; they are overburdened."

I might point out, the Governors, mayors and county executives define Federal mandates not only as mandates that tell you you must do something and give you no money, but they define a Federal mandate as a mandate that says you, in order to get any money, must spend more money than we are offering you. They count them both as Federal mandates.

Added to the Biden bill, now the Biden-Hatch bill, added to the bill were these incredible number of Federal mandates. The prison provision. There is one prison provision in here—I am the guy that 5 years ago wrote a bill that no one supported, Democrats or Republicans, that said we should build Federal regional prisons. Now we are hearing on the floor this great breakthrough that we need Federal regional prisons.

OK, great, so far so good. But there is a little difference this time. They say for a State to take advantage of putting a State prisoner in a Federal regional prison, they have to have a sentencing law in their State that is the same as a sentencing law federally, which I am wedded to. I along with three or four other people are the folks who wrote that sentencing legislation, including the Senator from South Carolina and the Senator from Massachusetts. That has been, what, 15 years, 10 years? I do not know how long ago now.

That is a great idea, but guess what? In order for those States to qualify to be able to send a State prisoner to that Federal prison which will be built if this passes and becomes law, probably in 3 years before any one is built, in order to be able to send them to that prison, for every dollar that we give them indirectly by spending on building that prison and maintaining it, they are going to have to spend $20, that is if you count just the $3 billion. Because how it works now is there is $3 billion for regional prisons, ostensibly to help the States, but they have to change their sentencing laws so that they serve 85 percent of their time. The net effect of the State sentencing law changes, in order to do that, requires them to double their prison population, which means they have to build enough prisons in their State to house twice as many criminals as they now house in order to get a chance to get some of their prisoners sent to a Federal prison.

Let me translate it in pure dollars. The States will have to spend $11.8 billion per year over the next 5 years in order to qualify to compete for $3 billion of Federal money. I call that a mandate. If I am Governor and one of these folks walks into me as an executive assistant and says, "Governor, I have good news for you. Congress just passed a bill to help you. You can build Federal regional prisons and we can put State prisoners in there," I would say, "Great, this is a big help." "We have one little caveat, Governor. You have to spend 20 bucks for every one you send over." I as Governor will say, "Great, I am going to tell the State legislature the good news: For us to compete for the $3 billion we have to spend $11.8 billion per year." The $3 billion is for 5 years; the $11.8 billion is per year. That is a Federal mandate as far as I am concerned.

I will make you a bet, if it becomes law as it is now, none of the States will take advantage of it. So the net effect will be we are not going to be helping the problem very much. But there are other provisions in there that do help:

Three billion dollars for boot camps that we give to the States. The thing I think we should do, to follow up on the majority leader's comments, Senator MITCHELL, is the thing that makes this bill so good is that it deals with something that does work, and that is, we have an obligation federally, in my view, to deal with the crime problem under the principles of federalism that have existed for over 200 years; and

that is, it is totally consistent with the principles of federalism to say to the States: "This is a national problem, falling within your jurisdiction. We are going to send you help and let you implement it the way you think it best works."

The Biden-Hatch bill establishes a violent crime trust fund. There is a reason for doing that. The Senator from Utah and I concluded a long time ago, we are not going to walk on to this floor and ask people to vote for something in an authorization that we are not going to pay for. This should be truth in legislating, not just truth in sentencing.

Truth in legislating is if we are going to say we are going to do all this, we have to put our money where our mouth is. That is the phenomenal contribution the chairman of the Appropriations Committee came up with, which was against his instinct. As he pointed out on the floor, he was not anxious to set up a trust fund. I have been talking about a trust fund—and to be more precise, dedicated moneys to fight crime with the Senator from Massachusetts. Six years ago we came up with money for a drug program and came up with money for a crime program and said we will pay for it by a dedicated tax.

I know none of us are supposed to say we are for taxes, but he and I were for taxes to fight crime because we were tired of people coming on the floor talking tough, passing tough bills and then not coming up with the money for them. The Senator from West Virginia came up with a proposal that was one better than that; he set up a trust fund. I might add that John Hilley, of the majority leader's staff, was really the architect of that good idea.

This bill is different than any we have ever passed—because in the bill we spell out with specificity how we will pay for it. This year we have the chairman of the Appropriations Committee, who some might suggest is one of the more powerful Members of the U.S. Congress, signing on to that proposition. Actually, not only signing on, coming up with it.

The second reason why this bill is historic, in my view, is that it provides for 100,000 police officers. The 100,000 police officers is not just giving the States money to hire 100,000 police officers. One of the things we want to do, very bluntly which is consistent with the principles of federalism, is to use the carrot-and-stick approach. We say to the States, "All right, we know one thing: Community policing is more effective than the alternative; that is, not having community policing."

So given the choice of having 100 police officers either in squad cars, in cruisers, and/or behind desks, and 5 police officers behind desks and 95 walking the street, everybody knows, 5 behind desks and 95 walking the streets has a greater impact on diminishing crime and increasing apprehension than having them in cruisers and behind the desks. We need police in cruisers. We need police behind desks. But we need more police out on the beat, walking the street, interacting with the community.

So what do we do here? It is not merely that we follow through on the President's request to provide 100,000 local police officers. I wish to make it clear to the public. These police officers are not going to be wearing Federal uniforms. These are going to be local police officers hired under local rules, accountable to local political entities, accountable to local police departments. We are just providing the money, a part of the money. The States have to come up with the other part of the money, because I found in my years of experience here when you tell somebody the Federal Government is going to do it all, their sense of responsibility diminishes. When you tell them they have to put up 2 percent, 5 percent, 10 percent, 25 percent, it is amazing how it focuses their attention.

When I used to be a county council person in New Castle County in Delaware in 1970, people would come in and say, "We have a new program to build this park," or do that, and I or someone else would say, "Well, how much is it going to cost us?"

"Oh, it is not going to cost us anything. That is Federal money."

I kind of thought Federal money was my mother's money as much as State money was my mother's money because she pays taxes in both circumstances. So we find when we attach a requirement to participate, there is a greater degree of responsibility. And we do that.

But there is a second thing this does, beyond giving the financial help. A State, in order to get the money to hire more police officers, has to adopt the notion of community policing.

Now, a lot of States have not done that, a lot of localities have not, because it is harder to have a community policing operation than it is to have a standard operation.

Were I a police officer being put in harm's way the way all are—and I would not take that job for all the rice in China. Thank God there are women and men willing to do it. But were I a police officer, I would rather ride around in a squad car in a tough neighborhood than walk around with my leather boots or shoes on. I cannot blame them.

So a lot of police departments do not have community policing because the political entities—the mayor, the county executive, the Governors, whatever—sometimes do not have enough political clout to get the police department to do what they want done.

In this one, now the mayor is going to be able to go to the chief of police and say, "Hey, Chief, you want some more police officers?" The chief says, "Yeah, we need them." They are going to say, "We are going to change the way we police."

"I don't want to do that."

"No problem, Chief. No money. But if you want them, we have to have community policing."

So I believe there is a real multiplier effect, Madam President, in this. It is not merely the money we are sending. We are changing the philosophy of how to more effectively police our streets, our neighborhoods, and our communities.

Now, another item in this legislation that I think is different—I do not hear this much anymore, but when I first introduced the crime bill, editorial writers and others—not just editorial writers —said, "That's the same old thing, more cops, more whatever."

No one is saying that now that I am aware of. But to reinforce that, these are new ideas. We found out that one of the problems we had, to state the obvious, was prison overcrowding.

There is not a person in this country—whether they are visiting from out of town observing this, whether they are watching it on television, whether the press covering it or our colleagues who are participating in it—who has not seen a news report in the last 5, 6 years in their own media market where there is a story about how violent criminals have been let out of jail because there is no space for them. These are the people who are out recommitting the vast majority of crimes.

So we decided that it is time not only for us to get involved but to become cost-effective. And we found out, Madam President, that to build and maintain boot camps is more effective and cheaper than to build and maintain prisons. And we found, out of 840,000–850,000 people in State prison systems, 160,000 of them were first-time, nonviolent offenders.

Why should they be taking up space in a prison system requiring those folks to pay $30,000 a year to keep them there? Why not put them in a boot camp? Why not put them in a quonset hut? Why not put them behind barbed wire instead of a wall that is 20 feet high, 3 feet thick, and costs tens of thousands of dollars to build? These are people who are not a risk to the community, but they deserve to be punished.

So we provide $3 billion here to get those folks out of the prison system, creating up to 100,000 empty beds in the existing prison system at the State level, providing space for up to 100,000 violent criminals that can now be put in those spaces.

I am not suggesting it took a rocket scientist to think of that. The fact is we had not done it before, though. This is just plain old common sense. It is a

lot cheaper, and it opens up over the next 5 years 100,000 beds behind bars, behind walls, behind gun turrets, behind guards, to put violent people who are now walking the street.

Now, there is the other $3 billion for prisons that I suggested, regional prisons. It will be there if it passes. I am skeptical that the States will take advantage of that piece. Maybe they will. By the way, the $3 billion for boot camps is money we give to the States to build State boot camps. I am also going to speak to some of the other aspects of this in a moment.

But let me go through another provision. There is a new idea here, new to the Federal level but not new to the States, called "drug courts." The crime bill includes $1.2 billion to help first-time, nonviolent drug offenders go straight.

Here again, with this innovative program, we give nonviolent drug offenders a chance and a choice. We put them in treatment or we put them in prison. It is their choice. Offenders who choose treatment are watched and tested and, if they fall off the wagon, we raise the stakes. We put them in boot camps—right now 600,000 of them are walking around the streets, no supervision—or we assign them to community service or community-based incarceration. If they flunk out of that program—and they flunk out by being tested on a weekly basis—if they test positive, if they either do not show up for the test and/or they come and they test and they test positive, then we put them in a prison.

When we put them in these prisons, we put them in drug treatment; give the States money to give them drug treatment.

When I said this 6 years ago, everybody thought I was nuts. I noticed—I think I am correct—as I was shaving this morning, watching local television, there was a raid where they arrested a number of guards at Lorton Prison, and they arrested a number of people involved with prisoners in Lorton Prison. I remember I said to Ted Koppel 4 or 5 years ago, when he called me and asked—because he heard me say that there are more drugs in prison than outside of prison, and a lot of the press, understandably, thought that was just a great, old, typical political statement. That is what the press thought, and lots of times they are right. This time they were not right. So they did a program on Night Line from Lorton Prison. They put all these folks in a room, all these hardened criminals. The room was packed. And Ted Koppel asked the question, almost apologetically—I am paraphrasing; I am characterizing, and he might suggest mischaracterizing—he said, "By the way, you get any drugs in prison?" And all these guys in that prison said, "Yeah, we get drugs."

Well, guess what? The D.C. police just arrested today an entire network of people for bribery and conspiracy for taking drugs into prisons. They are as plentiful in prisons as they are in the streets.

So if we do not get drug treatment for those people in prison, notwithstanding the fact they come out after serving their time, they are no less dangerous to you. They come out still addicted to drugs. They shoot you, maim you, rob you, burglarize your home. They are just back in the cycle again.

In these drug court programs we give these folks treatment, first-time offenders. We do not spend tens of millions of dollars housing them in maximum security facilities, and we provide actual probation officers who follow them. There is actual supervision.

We also have in here a major breakthrough, the assault weapons ban. The crime bill this year, I believe, has a chance of keeping this ban.

I commend Senators FEINSTEIN, DECONCINI, and METZENBAUM for shepherding this through the Senate. I hope we can keep it in conference. I plan on doing everything in my power to keep it in conference.

Also, we have the antigang provision, a $100 million program to prevent juvenile gangs from drug trafficking. There are far too many kids these days for whom gangs and drugs provide attractive alternatives to poverty, broken homes and peer pressure. These grant programs to States for gangs in the bill will help catch these kids before they get caught by gangs.

I will not take the time now to go into it, but one of the things we found out from the massive number of hours of study in the Judiciary Committee in hearings, that if you have the same profile of people in two different public housing projects, and you put a Boys Club and a Girls Club in one and you do not have one in the other, the rate of crime and the rate of drug abuse is significantly lower in the place where the Boys or Girls Club is. Again, no rocket scientist, just what your mom and your grandmom used to talk to you about. "An idle mind is a devil's workshop." An idle child living in a project with nothing else to do is a lot more inclined to get into trouble and drugs than a child that is in an organized program in their environment, no matter how deprived their environment is.

We provide for the ability to do that here in this bill.

The thing that I care most about, of all that is in this bill—and I know the Presiding Officer feels as strongly as I do—is the Violence Against Women Act. I have worked almost 5 years on that legislation.

Nothing comes easy in this place. We finally passed it with the great help and cosponsorship of the Senator from Utah. I consider it the proudest accomplishment—self-serving thing to say—proudest accomplishment of my career in the United States Senate, bringing this to the point where it is on the verge of being able to become law.

I want to take this opportunity to thank Senators HATCH and DOLE for working with me on this legislation as well as the 66 other cosponsors, including the Presiding Officer, which is now part of the omnibus crime bill.

I might note parenthetically that I was disappointed that the Judiciary Committee of the House of Representatives last night essentially emasculated the bill, in my view, taking out the single most important provision of the bill. But I can assure you that with every ounce of energy I have in me, when we get to conference on this bill, that this is a non-negotiable item as far as I am concerned because the fact of the matter is violence against women is epidemic in America. The numbers are staggering.

A woman is battered in this country every 18 seconds. In recent years, the number of women abused by their husbands is greater than the number of women who got married. Maybe there is a correlation there. Some 22 to 35 percent of all the women who visit emergency rooms—22 to 35, depending on which study you take, minimum 22, maximum 35 of all the women who visit an emergency room—are there because of violence. One million women a year must receive medical treatment because of injuries due to violent attacks.

The passage of the Violence Against Women Act will take an important step toward ending the cycle of terror and violence which has marked the lives of so many American women.

The act has three basic goals: To make streets and homes safer for women; to make the criminal justice system more responsive to the victims of these crimes; three, to extend to women victims the equal protection of our Nation's law.

I know this body is tired of hearing me talk about this. I have became a broken record on it. But the reason we need Federal legislation in this area is because the States have such a disparate and inequitable body of law as regarding women. For example, in my State of Delaware, if you are a voluntary social companion—meaning if you have gone out voluntarily with the man before, even if he rapes you, he cannot be convicted of first-degree rape. You can get him for second-degree rape, but not first-degree rape.

The underlying premise that rationalizes that position is sickening. But for every one of the examples I can give you in my State, my State relatively speaking is advanced compared to the vast majority of the States. So we need a Federal Government.

This legislation is a first comprehensive approach to fighting all forms of violence against women committing a broad array of needed reforms; new

laws that focus on offender's conduct, rather than on the victim's character.

By the way, I do not care whether a woman is loose or prudish, I do not care whether she is good or bad, I do not care whether she is a mother or a saint or a sinner, no man has a right under any circumstances, other than in self-defense, to ever lay a hand on a woman; period; no right. It seems to be part of our ethic—I might add, no right to lay a hand on anyone else—but our ethic seems to be if it is a woman, somehow she is a chattel; she is somehow property.

How many times have you heard the expression "my woman"? What the hell does that mean, "my woman"? But that is part of the ethic. Part of the ethic is somehow it is OK.

I cite this again. I was dumbfounded to find out the origin of the phrase "rule of thumb." I held a hearing maybe 4 or 5 years ago, and one of the witnesses said, "Senator, do you know what the origin of the phrase 'rule of thumb' is?" This person held up the thumb.

I said, "No."

It goes back to the English common law when a woman was viewed as chattel; that is, owned as a piece of property that was not real estate, like a table or a light fixture. That is a chattel. A woman was the chattel of her husband.

So what happened was that the woman—the husband was able to use whatever force necessary, with his chattel. The chattel was his wife and his children. He could beat them; do whatever he wanted. But something started to happen. A lot of women were dying. So they decided they had to do something about this.

The first court of reform decided to set out a rule called the rule of thumb. It said that you can beat your wife with a stick, so long as the rod, or the stick you use, was not bigger than the circumference of your thumb.

I imagine a lot of women walked around checking their potential husband's hands before they agreed to marry. But think of that. That is where the phrase comes from.

We have to change the ethic. I believe this violence-against-women legislation is the most significant thing. And I think most people who have looked at it will acknowledge that it is the most significant thing to begin to change our attitude about violence with women; what is appropriate, and what is inappropriate.

There are many other provisions in this bill that I think warrant being pointed out that are different, that are new, like the ones I have mentioned, that are innovative.

Again, when I say innovative, I am not trying to claim credit for having this great incredible insight into the problem. I am not suggesting that they are innovative in the same sense that finding a cure for cancer is innovative. They are all common sense. But they are innovative in the sense they have not been tried before. They have not been done before. They have not been offered before.

One of those is, Madam President, I think until we start to pay attention to the rights of victims in our society, victims in the criminal justice system, that we are going to continue down the road of a disrespect for the law.

Think about it for a minute. What happened to us not many years ago—as a matter of fact, back again to our English jurisprudential history, in the beginning of the Colonies in this country, this is the way it used to work: The victim played a central role in the prosecution of a defendant. The way it used to work was if you assaulted me, Madam President, what I would do is go find a constable and hire that constable; I would actually pay him to go arrest you. Then I would pay the cost of taking you to trial before a judge, and if you were convicted, I had to pay the cost of putting you in prison. But I was a central piece of that whole process—the victim.

What happened was, we found it was not very equitable. I am oversimplifying this in the interest of time. What happened is they came along and said: Wait a minute, only wealthy people get to redress the grievances against them. From now on—they said —it would read, if it was a criminal case, for instance, it would be Biden versus Murray, as opposed to the State of Washington versus Murray or the State of Delaware versus Biden. It was the name of the victim versus the defendant. But at least the victim had an opportunity in that system to go through the psychological venting, if you will, of the harm done to them. When you beat somebody up, violate them or their property, it has a similar effect as if they have had any other tragedy that happens in their life. We discount that.

One of these people in Washington, DC, watching this debate, if they are mugged, they do not get a chance to determine when the trial will occur or to determine whether or not a plea bargain should be offered to that person. They do not get a chance to be part of the process. They are lucky if they get a phone call in any city in America to say what happened to the defendant. They may get a call that says: You know that person who beat you up? We did not think we had enough evidence, so we are not going to pursue the case.

That is what happens. No wonder people are callous and angry.

So, Madam President, what happened, as we changed in the name of providing more equity, we took the victim out of the process. Now it is the State of Delaware versus Jones, instead of Biden versus Jones. There is no psychic satisfaction that is necessary for the healing process of a victim, nor is there financial remuneration. In this bill we do both. We reinject the victim as part of the process. So that if the person is convicted, they can in fact get as part of the penalty a requirement or opportunity for the judge to say: You must pay back, provide restitution to the person you have done a wrong to.

What do we teach our children? We teach them that when they do something wrong, it is not sufficient to suffer the consequences. We take them back to the teacher and make them apologize. Right? We take them back to the store owner and have them say: I stole the candy bar. We make them do things, and those processes have developed over a thousand years for a simple reason: It is part of the healing process, the healing process for the victim. We do not do that now. In this legislation, we begin to do it again.

We have in here a bill that I worked very hard with Oprah Winfrey on. She is a woman truly dedicated to dealing with the abuse against children. This is not some phony show-biz, you know, I-have-my-cause routine with her. I have worked with her for too long. I know that part of her too well. So she came up with an idea to prove that not all these ideas come from me or my staff or others who are professionals. She asked, "Can we not do something about the fact that we have child molesters working in areas where in fact children reside?"

It is like that old sick saying applied to this, when they asked Willie Sutton, "Why do you rob banks?" He said, "That is where the money is." Well, the vast majority of people who take care of children are not child molesters, but if you are a child molester, your inclination is to go where the children are.

So in this legislation, we set up a national criminal background check system for those who care and provide for the children, the elderly, and the disabled. So that now if I am running a child care center, I want that protection; and if I want to hire John Jones, I want to be able to check his background. I do not want to hire John Jones if he has been convicted of child molestation. This provides the opportunity to find that out.

We also put a billion dollars more in for more FBI agents and prosecutors. One of the most important provisions of this bill that has been added is Senator KOHL's provision relating to children and guns. It prohibits and punishes people for the sale or transfer of a gun to a juvenile. To combat rural crime, there is $250 million. I had a lesser amount. Thanks to the Senator from Utah, we bumped it up for rural crime, where there are one- and two- and three-person police departments.

I know the State of the Presiding Officer relatively well. Once you get

across Snoqualmie Pass, you get into small communities with one- and two- and three-person police departments. They are faced with the same problems the cities are. We provide help for rural communities in this bill.

There is also in this bill $100 million for safe-school programs, to fund crime and safety measures, and to develop in-school anticrime and antidrug and antigang programs. But they can do anything with this money at the local school level, from putting in a metal detector to hiring a guard to putting in a drug treatment program. Again, not rocket science, but important.

Now, let me conclude by suggesting that there is a lot in this bill that nobody has paid much attention to, and understandably. I am not being critical when I say that. I am going to submit this for the RECORD when I conclude. I title it—it was the "Biden bill" and now it will be the "Biden-Hatch bill." This is "The Biden-Hatch Bill: Beyond Crime and Punishment." To sum it up, it goes like this: Of this almost $23 billion, we are going to spend close to $5 billion of it for treatment prevention and programs to keep children and people from crime. This is not just cops and robbers stuff. This is very important stuff, along the lines the Senator from New Mexico spoke about this morning, and the Senator from Connecticut [Mr. DODD] spoke about last week, and the Senator from Missouri [Mr. DANFORTH] spoke about and will speak about again, and so on.

Most of my colleagues do not even realize it—and I understand it because they have other things to do—because we introduced the Biden bill of 500 pages, and they did not have a chance to look at it all. What happens in there—let us talk about the community policing and prevention programs. We have in here almost $9 billion to hire new cops. You have heard me talk about that. Of that, 15 percent, or $1.2 billion, can be used by the cities. Instead of hiring a cop, they can engage in innovative prevention programs, such as early intervention teams of police, doctors, or educators, and others, to enter into the early lives of juveniles, like in New Haven up at Yale. We provide money for that. We have proactive prevention programs. You are allowed to use this money to set up police athletic leagues, Big Brothers and Big Sisters programs, and Boys and Girls Clubs. They can use up to $1.2 billion of the money to do those things.

I might add, I thank CRAIG WASHINGTON, a leader, an incredibly articulate Congressman from the State of Texas, an African-American who is a leading member of the Black Caucus in the House of Representatives, for helping me focus on this. We also have alternatives to incarceration. We authorize $3 billion for States to operate these boot camps. But while they are in the boot camps, the States can use this money for aftercare services, such as job training, education, drug treatment, halfway houses, job placement programs, and self help and peer programs.

Of that $3 billion—this is not just more cops and robbers, in the drug court program, of the $1.2 billion they can use it for community service programs which employ offenders with nonprofit and community organizations. These are first-time offenders. That is community-based incarceration, like halfway houses, weekend incarceration, electronic monitoring and drug programs within the boot camps. It also provides for after-care services with that $1.2 billion for education and job training and self-help and peer programs.

(Mr. AKAKA assumed the chair.)

Mr. BIDEN. Mr. President, in addition, we have $100 million in here for juvenile gang prevention. We allow the States and the school districts to keep their schools open.

That is what the Senator from New Mexico wants to do. We have already done that in the bill. I welcome doing more of it. But it is already in the underlying bill.

So now, instead of closing, and it seems kind of silly to close a school in an inner-city, at 3:30 or 5 o'clock, why do not you keep it open all summer, not with the teachers having the responsibility? They have enough. Keep the schools open if the community wants to use those facilities, for after-school programs, for recreational programs.

For example, there is a program—I believe it is in Trenton, NJ, or maybe it is in Newark, NJ, Senator BRADLEY told me about, which they would be allowed to use the money for. What they do in very difficult neighborhoods with high crime rates is using the schools they set up programs after school where they have year-long team competition. They divide the neighborhood into all these teams. It is not just basketball teams. It is like the decathlon. They get so many points for basketball and baseball. And guess what else? They get points for having the grade-point averages in there. So every kid on this team brings to their team their report card as well as how many points they can score. And guess what happens? It is working. Kids take pride. They want to win.

So now, when a kid is going to flunk out of school and he is on the team, the rest of the kids say: "Hey, man. You're going to cost us, Jack."

It works. They will be able to do this with the juvenile justice portion.

We have pre- and post-trial drug abuse treatment for juvenile offenses, treatment for drug-dependent kids.

And the violence against women legislation, I might add, goes a long way toward prevention. It requires rape education on college campuses and schools. It also provides battered women shelters, the national violence hot line, which is Senator KENNEDY's idea, and youth education; $400,000 is provided for programs to educate youths and families about violence and abuse and safer colleges; $20 million is targeted to rape and violence prevention and education on college campuses.

In the safe schools program, $100 million can be used for drug and alcohol education, counseling programs for children who are victims of abuse and crime, programs that provide alternative constructive programs for youth at risk for gang recruitment.

THE BIDEN BILL: BEYOND CRIME AND PUNISHMENT

The Biden crime bill recognizes that there are two sides to solving the crime equation: punishing violent criminals is one part of the solution; reaching out to help those who have not committed crimes, but are at risk to do so, is the second part. Although much of the Senate floor debate focused on penalties and punishment because of the amendments offered by other Senators, the Biden crime bill contains many initiatives and considerable funding to deter crime by helping at-risk youth and nonviolent offenders.

The provisions in the Biden bill that address the underlying causes of crime include:

COMMUNITY POLICING PREVENTION AND TREATMENT PROGRAMS

Community policing for crime prevention: Of the total $8.9 billion authorized for community policing programs, $1.2 billion may be used to fund innovative prevention programs, such as:

Early intervention teams: Police, social workers, educators, and doctors working together to intervene early in the lives of juvenile victims and offenders—to help them turn their lives around.

Proactive prevention: Police involvement in prevention programs for youth, such as—the Police Athletic League; Big Brothers/Big Sisters programs; and Girls and Boys Clubs.

ALTERNATIVES TO INCARCERATION

Boot camps: The bill authorizes $3 billion for States to build and operate boot camps as an alternative to prisons to help get young, nonviolent offenders back on their feet. Offenders assigned to boot camps receive a reduced sentence—boot camp terms last no more than 6 months.

Boot camps must provide intensive drilling and supervision, involving work programs, education and job training, and drug treatment.

Boot camp participants must receive aftercare services, to be coordinated with human service and rehabilitation programs, such as: Educational and job training programs; drug counseling or treatment; halfway house programs; job placement programs; and self-help and peer group programs.

Drug courts: The bill authorizes $1.2 billion in grants to States for drug court programs to provide an alternative to prison and to help non-violent drug offenders get the treatment they need to get their lives back on track.

Instead of serving time, a drug offender is placed on probation with mandatory drug testing and treatment. If an offender fails the tests, he or she becomes subject to graduated alternative punishments, which intensify treatment and supervision, but stop short of traditional incarceration. The alternative punishments include: community service programs which employ offenders with nonprofit and community organizations; community-based incarceration like halfway houses, weekend incarceration, and electric monitoring; and boot camp programs.

If an offender fails the drug court program completely and is sentenced to prison, he or she receives treatment there—in facilities set apart from general prison population. The treatment programs should address the offender's social, behavioral, and vocational problems, as well as drug addiction.

Preference in making grants is given to States providing assurance that offenders are provided with aftercare services, such as: educational and job training programs; and self-help and peer group programs.

JUVENILE DRUG TRAFFICKING AND GANG PREVENTION

Gand and drug abuse prevention: the bill authorizes $100 million in State grants for drug and gang prevention programs, such as: education, prevention, and treatment programs for at-risk juveniles; academic, athletic, and artistic after-school activities; sports mentor programs where athletes serve as role models and counselors for kids at risk for gang and drug activity; alternative activities in public housing projects, such as Girls' and Boys' clubs, scout troops, and little leagues; education and treatment programs for juveniles exposed to severe violence; pre- and post-trial drug abuse treatment for juvenile offenders; treatment for drug-dependent pregnant juveniles and drug dependent juvenile mothers; and training for judicial and correctional agencies to identify, counsel, and treat drug-dependent or gang involved juvenile offenders.

DRUG TREATMENT AND PREVENTION

Community substance abuse prevention grants: The bill provides $60 million over 3 years for coalitions of community organizations—such as schools, health, and social service agencies, parents, civic groups, academics—to: plan and implement comprehensive long-term strategies for drug abuse prevention; and coordinate drug abuse services and activities, including prevention activities in schools.

Drug treatment in prisons: The bill establishes a schedule for drug treatment for all federal drug-addicted prisoners.

VIOLENCE AGAINST WOMEN

Grants to fight violence against women: The bill authorizes $870 million over 3 years for State grants to combat violence against women, with a special earmark for high intensity crime areas. Programs can include:

Expanding or strengthening victim services programs, such as rape crisis centers, battered women's shelters, and rape and family violence programs, including nonprofit organizations assisting victims through the legal process;

Training law enforcement officers to more effectively identify and respond to violent crimes against women; and

Expanding units of law enforcement officers specifically to target violent crimes against women.

Victim counselors: $1.5 million is provided for Federal victim/witness counselors in sex and domestic violence cases.

Indian tribes: $30 million is available over 3 years for grants to Indian tribes for programs to reduce violence against women.

Rape education: The bill authorizes $65 million for rape prevention and education programs, starting in junior high school, such as: educational seminars for students and training programs for professionals; and public awareness programs in under-served racial, ethnic, and language minority communities.

Help for the homeless and runaways: The bill provides $10 million for education and prevention grants addressing the problem of homeless and runaway women and girls, such as: street-based outreach and education programs; and treatment and counseling programs for runaway, homeless, and street youth who are at risk of being subjected to sexual abuse.

Battered women's shelters: The bill provides $300 million in grant money specifically for the operation of shelters for women and their children who are fleeing violent homes.

National family violence hotline: The bill authorizes $1.5 million.

Youth education: $400,000 is provided for programs to educate youth about family violence and abuse.

Safe colleges: $20 million is targeted to rape and violence prevention and education on college campuses.

SAFE SCHOOLS

Education and prevention in schools: The bill offers $100 million in local school and community grants, to be used for: drug and alcohol education and training programs; counseling programs for children who are victims of school crimes; and programs to provide alternative, constructive programs for youth at risk for gang recruitment.

SEXUAL VIOLENCE AND CHILD ABUSE

The "Oprah" bill: $40 million will pay for the development of a national criminal background check system for those who provide care to children, the elderly, or the disabled.

The Child Safety Act: $60 million in state grants is available to establish supervised child visitation centers for families with a history of violence or abuse.

I will not take any more time of the Senate, but let me conclude this portion by saying this is a solid piece of legislation.

I say to all those who are concerned about us not doing enough to deal with the causes of violence that we spend and allow the States to spend $4.2 billion to deal with the innovative approaches I have just spoken about. In addition, they will have available to them $18 billion to deal with actual law enforcement measures, more police, more prisons, et cetera.

So, Mr. President, let me again thank everyone for their cooperation.

I conclude by thanking particularly the majority leader. I thank him because occasionally I have gotten him in a little bit of hot water. I hope he does not get offended by what I am about to say. He has indicated to me for the last 4 years that although he wants to know what is going on he has never once attempted to overrule and/or interfere with anything substantively I have done in this crime legislation. As a matter of fact, he probably has second guessed himself whether or not he should have given me the carte blanche he has given me to negotiate and/or write the legislation. I hope it has not gotten me in too much trouble, although occasionally I know it has. I thank him for his cooperation and leadership because we would not be at this point—and we all saying this kind of thing almost sounds like a mutual admiration society but, as they say, I speak the truth on this point—we would not be at this point were it not for his great skill moving us through the morass. We would still be debating the first part of this legislation.

Hopefully, he is coming to the floor because he might have a breakthrough further on how we are going to enter into a time agreement on other parts of the bill.

I thank him and thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

For the record, I assume that the thing that is holding up an agreement is not the actual crime bill but how to proceed relative to the Brady bill.

Mr. MITCHELL. That is correct.

Mr. BIDEN. I thank the leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my friend and colleague for his comments.

Unfortunately, I am here to report that we do not have a breakthrough on how to complete action on this bill.

Therefore, I have decided, after consultation with Senator DOLE and other interested Senators that we should now begin the debate with respect to the North American Free-Trade Agreement and permit us to continue the discussions that are underway and that I think will be brought to a conclusion in a couple of hours. That will then permit us, I am confident, to vote final passage on the crime bill today and then to proceed to the Brady bill, one way or the other, either with agreement or without.

Mr. BIDEN. May I ask a question of the distinguished majority leader. Obviously I have no objection to that. I think it is a rational way to proceed.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the 2 hours between now and 3:07 p.m. today be for debate on the North American Free-Trade Agreement; that the statutory time limitation be reduced accordingly; and that the time during this 2 hours be controlled as follows:

Senator BAUCUS, or his designee, managing the bill and controlling the time for the Democratic proponents; Senator MOYNIHAN, or his designee, managing the bill and controlling the time for the Democratic opponents; Senator PACKWOOD, or his designee, managing the bill and controlling time for the Republican proponents, and a Republican Senator to be later designated by Senator DOLE managing the bill and controlling time for the Republican opponents.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. MITCHELL. Mr. President, I yield the floor and Senator BAUCUS will be the manager of this bill and will control the time for the Democratic proponents for this bill or this agreement, I should say, and he is present and will begin the debate now.

As all of us know, the House last evening in a historic action approved the measure by a vote of 234 to 200. The Senate will in the near future complete the debate on the measure. That debate is limited in time pursuant to law.

I hope every Senator who wishes to do so will have the opportunity to express himself or herself on the subject.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana, [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, the Senate is at this time considering the North American Free-Trade Agreement under the agreement just announced by the majority leader. We will now devote approximately 2 hours to debate on whether or not to ratify the North American Free-Trade Agreement.

I will make several remarks in favor of ratifying the agreement. Senator PACKWOOD is on the floor. He wishes to make some remarks.

I say to any Senator who wishes to speak on this subject this is a good time to come to the floor to take advantage of this period because we are not sure how many hours we are going to have and when we will have it.

Mr. President, this debate on whether or not to ratify the North American Free-Trade Agreement forces us as Members of the Senate, forces us as Members of the Congress, forces us as American people, to ask basic questions about ourselves, about our economic future, who we are as a people, who we are as a country, and forces us to dig down deep and ask those searching questions because whether we accept or whether we reject this agreement very much determines the answers to those questions.

For example, must we hang on to the past and preserve the status quo? The opponents of NAFTA ask us to do that; to hang on to the past, to preserve the status quo. Or, can we open new frontiers and find new opportunities? Those of us who advocate ratification of the North American Free-Trade Agreement very much believe that a vote in favor of the agreement is a vote to open new frontiers, find new opportunities for America.

Mr. President, these are very basic questions. They are questions that are fundamental to this agreement.

Last night the House of Representatives took the courageous first step. Last night the House of Representatives, by a vote of 234 to 200—a quite significant margin—voted for the future. The House voted to accept the challenge that global competition is forcing us to take up and meet. The House of Representatives decided to take that risk, to take that gamble; a risk, I might add, Mr. President, which actually is not that great.

The Mexican economy is only 4 percent the size of the American economy. The size of the Mexican economy is about the same size of the economy of the State of Ohio, just one State in the United States of America.

Nevertheless, I strongly believe that the vote by the House of Representatives last night was a vote for the future. The House decided to take that risk to believe in America and to force our country to move forward and meet international competition and international challenges as we take our first step with Mexico.

Let us look at some of the details with NAFTA. There has been a lot of talk about the North American Free-Trade Agreement, a lot of claims, some of them, I think, are quite accurate; some of them, I think, are a bit exaggerated.

What does NAFTA mean for our economy? Let me first take the manufacturing section. The U.S. International Trade Commission has concluded that the NAFTA will raise the U.S. exports by 16 percent or more in automobiles, auto parts, electronics, ceramics, computers, computer parts. Exports will increase under the NAFTA, according to the International Trade Commission, by 6 percent to 15 percent in bearings, machine tools, pharmaceuticals, chemicals, industrial machinery, and major household appliances.

What about employment? ITC again concludes that employment will rise—that is rise, not fall, rise—by up to 5 percent in steel, textiles, bearings, pharmaceuticals, machine tools, and chemicals. We will pick up 8,000 jobs, in addition, by partially opening PEMEX.

Now what is PEMEX? PEMEX is the monopoly, the oil and gas monopoly, State-controlled monopoly in Mexico, which controls oil and gas exploration, development, and production. Mexico has agreed to open up PEMEX to American investors—not entirely, but partially—so we can sell products to Mexico in that field.

We will pick up 8,000 jobs by partially opening up PEMEX. American technology firms will also find a huge new market in Mexico.

What about agriculture? NAFTA means big gains for the U.S. exports of wheat, feed grain, corn, beef, and other commodities. Why? Because Mexico's agricultural tariffs today average 16 percent. Let me repeat that, Mexico's agricultural tariffs today average about 16 percent. They go as high as 25 percent on frozen beef. That is, if we are trying to ship frozen beef to Mexico, Mexican tariffs today are 25 percent. NAFTA will bring all of these tariffs down to zero; all the way down to zero. And that means $2 billion to $2.5 billion more in agricultural exports every year.

What about the service industries like banks and insurance? NAFTA is the best opportunity in years for those industries.

Today, for example, only 20 percent of Mexican automobile drivers and 8 percent of Mexican homeowners have insurance. Very few Mexicans have insurance. American insurance companies will have the same access to Mexico that Mexican firms have today in the United States. As we are open, they are closed. This agreement now allows American companies to sell insurance, automobile insurance, homeowner insurance, for example, to Mexico.

Intellectual property. NAFTA is the best trade agreement ever concluded with respect to intellectual property. It brings Mexico up to the highest international standards, higher than the proposed so-called Dunkel text in the Uruguay round. Some people tout the Uruguay round and say we have to

work to find a successful conclusion to the Uruguay round. And that is true, we must, although in so doing we have to be sure we get a good agreement. Because I firmly believe that no agreement is better than a bad agreement. We have to get a good agreement.

The intellectual property provisions in the Uruguay round are not as good as the intellectual property provisions in the NAFTA. In NAFTA, the intellectual property provisions defends the works and inventions of our writers, software authors, inventors, pharmaceutical firms, recording artists, protecting them from piracy. That means they will export more and create more jobs in America. Very important.

Now let us step back a bit and look at the whole picture. What does NAFTA mean for the United States of America?

Well, first it means more jobs. NAFTA means more jobs for Americans. The ITC finds that NAFTA will create a net of at least 95,000 new American jobs, on top of 700,000 American jobs that already depend on exports to Mexico and Canada. All will be threatened if we reject NAFTA. Nineteen of 20 studies say that NAFTA means more jobs. Nineteen of the 20 major studies on this subject say that NAFTA means more jobs; not less, more jobs.

Mr. President, I ask unanimous consent to have printed in the RECORD the Council of Economic Advisers' review of these studies.

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

[Council of Economic Advisers, Executive Office of the President, Oct. 20, 1993]

STUDIES OF THE ECONOMIC IMPACT OF NAFTA

SUMMARY

The NAFTA may be the most thoroughly studied trade agreement in history. A review of the major studies of NAFTA's economic impact indicate a broad consensus on key points in the NAFTA debate: (1) All three NAFTA countries gain from the agreement. (2) In the U.S., labor will gain through increased employment, increased wages, or both. (3) Increased investment in Mexico will not be at the expense of investment in the U.S. The few studies reaching contrary conclusions have been strongly criticized by academic and other professional economists.

In his speech signing the side agreements to NAFTA, the President stated that nineteen out of twenty serious studies showed that NAFTA was good for the U.S. economy in general and labor in particular. A list of the major studies of the economic impact of NAFTA is attached. Of the twenty comprehensive studies listed, nineteen find that NAFTA is good for U.S. labor, leading to either increased employment, increased wages, or both.

Both past experience with trade liberalization and economic theory indicate that increased international trade benefits all participants. Given the lessons from history, it is hardly surprising that virtually all the studies that analyze the potential gains from trade liberalization find that NAFTA would benefit all three countries.

In a recent letter to the President, 286 academic economists, including thirteen Nobel prize winners, expressed their support for NAFTA, stating: "While we may not agree on the precise employment impact of NAFTA, we do concur that the agreement will be a net positive for the United States, both in terms of employment creation and overall economic growth." The support for NAFTA among academic economists and serious researchers is simply overwhelming.

With the exception of a few studies, discussed below, the overwhelming conclusion from the large body of work assessing the economic effects of NAFTA is that NAFTA is good for all three countries.

All in all, an impressive array of academic, government, and business analyses of the economic impact of NAFTA have been done. NAFTA is probably the most thoroughly studied trade agreement in history. These studies have been extensively surveyed by impartial researchers at, for example, the International Trade Commission (ITC), the Congressional Budget Office (CBO), the General Accounting Office (GAO), and the Brookings Institution.

The ITC concludes: "Despite the different approaches taken in these studies, there is a surprising degree of unanimity in their results regarding the aggregate effects of a NAFTA. All three countries are expected to gain from a NAFTA. The greatest impact will be on the Mexican economy, with less impact on the Canadian and U.S. economies."

The CBO report concludes: "A thorough review of the myriad changes brought about by NAFTA, and of their interactions, leads to the single resounding conclusion that the net effect on the U.S. economy would be positive and very small. . . . Contrary to some commonly expressed concerns, the reallocation of resources would not be massive. Americans should not fear that NAFTA would cause a wholesale relocation of U.S. manufacturing plants and jobs to Mexico to take advantage of the lower average wage."

The Brookings Institution survey concludes: "A consensus emerged . . . that the direct economic effects of NAFTA will be small for both Mexico and the United States. . . . [M]any of the changes in commercial relations that are often associated with NAFTA in public discussions have already occurred, and others will be spread over future years. . . . The general consensus of the studies . . . is that NAFTA will raise the average wage of U.S. workers and that the effect on low-wage workers will be negligible."

The GAO review concludes: "With the exception of a few U.S. policy analysis groups, the economic researchers in general agree that NAFTA would bring a small overall economic benefit to the U.S. and Canadian economies, and a larger benefit to the Mexican economy."

The one comprehensive study that found negative results is a paper by the Economic Policy Institute (EPI), written by Jeff Faux and William Spriggs (item 17 on the attached list), which drew on a model developed by Raul Hinojosa and Robert McCleery. This study found that 550,000 jobs were "lost" due to NAFTA, a number which has been widely cited by EPI in various press releases. However, the number largely consists of jobs "lost" due to return migration of workers from the U.S. to Mexico. In the scenarios generating this result, growth in Mexico raises Mexican wages, yielding return migration and higher wages in the U.S. These are not jobs "lost" by American workers, but rather U.S. jobs foregone by Mexican workers for whom NAFTA will provide increased income at home.

Hinojosa and McCleery wrote a letter to Faux, the President of EPI, complaining about what they considered to be a gross misuse of their model. The ensuing debate is described in a recent article by Robert Wright in *The New Republic* (November 1, 1993, p. 42). Wright is very critical of the EPI work, using terms like "anti-NAFTA misinformation."

The studies listed under the heading "Studies with selective consideration of certain issues" are the ones often cited as indicating that NAFTA is bad for the U.S. There are two by the Economic Strategy Institute (ESI), whose President, Clyde Prestowitz, initially argued that NAFTA would be bad for the U.S. Since then, Prestowitz has changed his mind. In an article titled "Time for NAFTA" (Economic Strategy Institute, *News and Notes*, Vol. 1, No. 4, summer/fall 1993), he concludes: "Even with its imperfections, NAFTA will leave America better off than before." He notes: "The barriers that are being removed are mostly on the Mexican side. Ironically their removal may actually reduce incentives for U.S. firms to move south."

Critics of NAFTA, including EPI, often cite a study by Edward Leamer, a Professor at UCLA, as indicating that NAFTA will lower wages for nonprofessional workers in the U.S. by up to $1,000 a year. Those who have reviewed the Leamer paper note that it does not refer to NAFTA, but extrapolates from trends in the 1970s and 1980s. Robert Wright (*The New Republic*, Oct. 11, 1993, pp. 23–25) interviewed Leamer, who said that the use of his study by EPI was "extremely misleading." Leamer, in fact, supports NAFTA.

The study of NAFTA by Koechlin, Epstein, Bowles, and Larudee argues that NAFTA will lead to the loss of 290 to 490 thousand jobs in the U.S. The chain of argument in this article, however, is deeply flawed. They assume that: (1) NAFTA will generate increased foreign investment in Mexico; (2) much of this increased investment will come from the U.S.; and (3) increased U.S. investment in Mexico will reduce aggregate investment in the U.S. dollar for dollar, and lead to job losses as capital moves to Mexico. While the first two steps in this chain are reasonable, the final step is nonsense.

The Congressional Budget Office (CBO), in chapter 2 of their study of NAFTA (*A Budgetary and Economic Analysis of the North American Free Trade Agreement*), examined the question of investment diversion carefully, using a multicountry macro model. In a section entitled "Increased Investment in Mexico Is Not At the Expense of Investment in the United States" they conclude (p. 26):

"A popular view holds that individual plant migrations would combine in a 'great sucking sound' as large amounts of net investment and jobs flow out of the United States into Mexico. This view rests on a misconception. Particular events in which capital appears to move to Mexico would be offset by others in which new capital, some from outside North America, flows to new investment projects in the United States."

In a review of the Koechlin *et al.* model in a book edited by N. Lustig, B. Bosworth, and R.Z. Lawrence (*North American Free Trade: Assessing the Impact*), Hinojosa and Robinson (pp. 85–86) conclude:

"There is no theoretical or empirical reason to think that these investment changes will have any effect at all on aggregate investment [in the United States]. In fact, EC experience after Spanish and Irish accession

suggests that NAFTA should increase direct foreign investment (DFI) into the United States."

NAFTA IMPACT STUDIES

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS FOR THE U.S. ECONOMY

Comprehensive studies

Macroeconomic Models

1. INFORUM-CIMAT (Clopper Almon, Univ of Maryland).
2. DRI/McGraw-Hill.

Static Computable General Equilibrium (CGE) Models

3. Boyd, Krutilla, and McKinnery (Ohio Univ & Baylor).
4. U.S. International Trade Commission (USITC)—February 1991.
5. U.S. International trade Commission (USITC)—January 1993.
6. KPMG Peat Marwick (Bachrach & Mizrahi).
7. Hinojosa and Robinson (UC Berkeley).
8. Robinson, Burfisher, Hinojosa, and Thierfelder (UC Berkeley, USDA, UCLA, US Naval Academy).
9. Burfisher, Robinson, and Thierfelder (USDA, UC Berkeley, US Naval Academy).
10. Hinojosa, Robinson, and Wolff (UCLA and UC Berkeley).
11. Trela and Whalley (Univ of Western Ontario).
12. Brown, Deardorff, and Stern (Univ of Mich)—June 1991.
13. Brown, Deardorff, and Stern (Univ of Mich & Tufts)—Oct. 1992.
14. Roland-Holst, Reinert, and Shiells (Mills College & USITC).
15. Hunger, Markusen, and Rutherford (San Diego St, Colorado, Western Ontario).

Dynamic Computable General Equilibrium (CGE) Models

16. Hinojosa and McCleery (UCLA and East-West Center).
17. Economic Policy Institute (EPI). (NOTE:—This is the only comprehensive study finding a net job loss from NAFTA.)
18. McCleery (East-West Center).

Analogy to Other Liberalizations

19. Institute for International Economics—IIE (Hufbauer & Schott)—February 1992.
20. Institute for International Economics—IIE (Hufbauer & Schott)—February 1993.

Studies with selective consideration of certain issues

1. Economic Strategy Institute—ESI (Prestowiz et al.) (1991).
2. Economic Strategy Institute—ESI (Chimerine & Cohen) (1992).
3. Koechlin, Epstein, Bowles, and Larudee (Skidmore & Univ Mass).
4. Leamer (UCLA and NBER).
5. Choate (Ross Perot).

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS ONLY FOR MEXICO

1. Adams, Alanis, and del Rio (Univ of Pennsylvania).
2. Kehoe (Univ of Minnesota).
3. Levy and van Wijnbergen (Boston Univ and World Bank).
4. Sobarzo (Colegio de Mexico).
5. Young and Romero (Univ of Texas and Colegio de Mexico).

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS ONLY FOR CANADA

1. Cox and Harris (Univ of Waterloo and Simon Fraser Univ).

REVIEWS OF NAFTA IMPACT STUDIES

1. Brookings Institution—Lustig, Bosworth, and Lawrence.
2. Congressional Research Service (CRS)—Bolle.
3/4. Congressional Budget Office (CBO)—Arnold and staff study.
5. U.S. Department of Labor—Schoepfle & Perez-Lopez.
6. U.S. General Accounting Office—staff study.
7. U.S. International Trade Commission (USITC)—staff study.

NAFTA IMPACT STUDIES

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS FOR THE U.S. ECONOMY

Comprehensive studies

Macroeconometric Forecasting Models

1. INFORUM-CIMAT (Clopper Almon, University of Maryland). Interindustry Economic Research Fund, Inc., "Industrial Effects of a Free Trade Agreement Between Mexico and the USA." Prepared under contract to the U.S. Department of Labor, Clopper Almon, University of Maryland, principal investigator, September 1990.
2. DRI/McGraw Hill. DRI/McGraw Hill, "The Impact of the North American Free Trade Agreement on U.S. Regional and Sectoral Labor Markets," Lexington, MA, August 1992, Appendix B in National Commission for Employment Policy, The Employment Effects of the North America Free Trade Agreement Recommendations and Background Studies, Special report No. 33 (Washington, DC: National Commission for Employment Policy, October 1992).

Static Computable General Equilibrium (CGE) Models

3. Boyd, Drutilla, and McKinnery (Ohio University and Baylor University). Boyd, Roy G., Kerry Drutilla, and Joseph A. McKinney, "The Impact of Tariff Liberalization between the United States and Mexico: An Empirical Analysis," Applied Economics 25 (1993), 81–89.
4. U.S. International Trade Commission (USITC)—February 1991. U.S. International Trade Commission, The Likely Effects on the United States of a Free Trade Agreement with Mexico, USITC Publication 2353 (Washington, DC February 1991).
5. U.S. International Trade Commission (USITC)—January 1993. U.S. International Trade Commission, Potential Impact on the U.S. Economy and Selected Industries of the North American Free-Trade Agreement, USITC Publication 2596 (Washington, DC, January 1993).
6. KPMG Peat Marwick (Bachrach and Mizrahi). KPMG Peat Marwick, Policy Economics Group, "The Effects of a Free Trade Agreement between the United States and Mexico," prepared under contract to the U.S. Council of the Mexico-U.S. Business Committee (Washington, DC, May 1, 1991); see also, Bachrach, Carlos, and Loris Mizrahi, "The Economic Impact of a Free Trade Agreement Between the United States and Mexico: A CGE Analysis," Pp. 39–79 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Commission, May 1992).
7. Hinojosa and Robinson (University of California at Berkeley). Hinojosa-Ojeda, Raul, and Sherman Robinson, "Alternative Scenarios of U.S.-Mexico Integration: A Computable General Equilibrium Approach." Working paper No. 609, Department of Agriculture and Resource Economics, University of California at Berkeley, April 1991.
8. Robinson, Burfisher, Hinojosa, and Thierfelder (Univ of Calif at Berkeley and U.S. Department of Agriculture). Robinson, Sherman, Mary E. Burfisher, Raul Hinojosa-Ojeda, and Karen E. Theirfelder, "Agricultural Policies and Migration in a U.S.-Mexico Free Trade Area: A Computable General Equilibrium Analysis." Working paper No. 617, Department of Agricultural and Resource Economics, University of California at Berkeley, December 1991; also reprinted Pp. 457–507 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).
9. Burfisher, Robinson, and Thierfelder (US Dept. of Agric, UC Berkeley, US Naval Academy) Burfisher, Mary, Sherman Robinson, and Karen Thierfelder, "Agricultural and Food Policies in a U.S.-Mexico Free Trade Area," The North American Journal of Economics and Finance 3:2 (Fall 1992), 117–139.
10. Hinojosa, Robinson, and Wolff (University of California at Los Angeles and UC Berkeley). Hinojosa-Ojeda, Raul, Sherman Robinson, and Goetz Wolff, "The Impact of a North American Free Trade Agreement on California: A Summary of Key Research Findings." Working Paper No. 3, Lewis Center for Regional Policy Studies, Graduate School of Architecture and Urban Planning, University of California at Los Angeles, September 1992.
11. Trela and Whalley (University of Western Ontario). Trela, Irene, and John Whalley, "Bilateral Trade Liberalization in Quota Restricted Items: U.S. and Mexico in Textiles and Steel," paper presented at a conference titled "North American Free Trade: Economic and Political Implications," Center for Strategic and International Studies, Washington, DC, June 1991; see also, Trela, Irene, and John Whalley, "Trade Liberalization in Quota Restricted Items: U.S. and Mexico in Textiles and Steel," World Economy 15:1 (January 1992), 45–63.
12. Brown, Deardorff, and Stern (University of Michigan and Tufts University)—June 1991. Brown, Drusilla K. Alan V. Deardorff, and Robert M. Stern, "A North American Free Trade Agreement: Analytical Issues and a Computalization assessment," Institute of Public Policy Studies, mimeo, University of Michigan, June 24, 1991; and revised version, October 18, 1991; subsequently published in World Economy 15–1 (January 1992), 11–29.
13. Brown, Deardorff, and Stern (University of Michigan and Tufts University)—October 1992. Stern, Robert M. Alan V. Deardorff and Drusilla K. Brown, "A U.S. Mexico-Canada Free Trade Agreement: Sectoral Employment Effects and Regional/Occupational Employment Realignments in the United States," University of Michigan, Institute of Public Policy Studies, September 2, 1992, Appendix A in National Commission for Employment Policy, October 1992).
14. Roland—Holst, Reinert, and Shiella (Mills College and USITC). Roland-Holt, David, Kenneth A. Reinert, and Clinton R. Shiells, "North American Trade Liberalization and the Role of Nontariff Barriers." Pp. 523–580 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).
15. Hunter, Markusen, and Rutherford (San Diego State, Colorado, and Western Ontario). Hunter, Linda, James R. Markusen and Thomas F. Rutherford, "U.S.-Mexico Free

Trade and the North American Auto Industry: Effects on the Spatial Organization of Production of Finished Autos." Paper presented at a conference titled "North American Free Trade: Economic and Political Implications." Center for Strategic and International Studies, Washington, DC, June 1991; subsequently published in World Economy 15:1 (January 1992), 65–81; see also, Hunter, Linda, R. Markusen, and Thomas F. Rutherford, "Trade Liberalization in a Multinational-Dominated Industry: A Theoretical and Applied General Equilibrium Analysis." Pp. 39–42 in Federal Reserve Bank of Dallas, North American Free Trade: Proceedings of a Conference (Dallas, TX, June 1991); revised December 1991, Pp. 187–223 in U.S. International Trade Commission, *Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico*, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).

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Analogy to Other Liberalizations

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5. Choate. Choate, Pat, "Jobs at Risk: Vulnerable U.S. Industries and Jobs under NAFTA" (Washington, DC: The Manufacturing Policy Project, April 1993).

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3. Levy and van Wijnbergen (Boston Univ and World Bank). Levy, Santiago, and Sweder van Wijnbergen, "Transition Problems in Economic Reform: Agriculture in Mexico-U.S. Free Trade Agreement." In U.S. International trade Commission, *Economy-Wide Modeling of the Economic implications of a FTA with Mexico and a NAFTA with Canada and Mexico*, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).

4. Sobarzo (colegio de Mexico). Sobarzo, Horacio E., "A General Equilibrium Analysis of the Gains from Trade for the Mexican Economy of a North American Free Trade Agreement." In U.S. International Trade Commission, *Economy-Wide Modeling of the Economic implications of a FTA with Mexico and a NAFTA with Canada and Mexico*, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).

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Mr. BAUCUS. Mr. President, we have heard a little bit from some opponents of NAFTA who say that NAFTA cuts lots of deals. There is an agreement on this subject, another agreement on that subject, lots of side deals, but not one deal for workers. That is wrong.

There is one deal for workers, and let me tell you what it is. It is the whole NAFTA. NAFTA is the best deal for workers. So to all of those who say, "Oh, there is a side deal for sugar, there is a side deal for corn growers, a side deal for appliance manufacturers, but there is no deal for workers," I say—because this is the central heart of NAFTA—that NAFTA is the deal for workers. It creates more jobs for an American employee, provides more income security in the short term and the long term for American workers. The entire NAFTA is devoted to creating jobs for working people. NAFTA is a jobs agreement.

Second, NAFTA means more exports. NAFTA strengthens the trends that raised our exports to Mexico from $12.4 billion in 1987 to $40.6 billion last year, and converted a $5.7 billion trade deficit with Mexico to a $5.4 billion trade surplus this year.

That is a lot of numbers. What does is mean?

Very simply, since President Salinas and his very, very talented team have taken control of the reins of the Mexican economy, they have begun to sell off a lot of lazy, bloated State controlled industries. They have lowered their tariffs so that countries can compete. In that period of time, Mexico as a consequence, from the American perspective, has converted from a $5 billion trade deficit we had in about 1987 now to about a $5 billion trade surplus.

The Mexican economy is growing. It is thriving. I will not say it is thriving as much as some other economies, but it is definitely pointing upward very, very steeply. It is growing. That is the reason Mexican people are buying more products. They have more income. That is why, although we formerly had a $5 billion trade deficit we now have a $5 billion trade surplus with Mexico. Eighty percent of our growth in trade with Mexico has come from outside the maquiladora program. Why do I mention that? Because some say, "Sure, the United States exports to Mexico have increased; but," you will hear opponents say, "they have done a U-turn. It comes back to the United States. The Mexican people are not buying those exports; the exports go to the maquiladora program along the border, are put into products, and those products come back into the United States."

I say up to 85 percent of our trade growth in Mexico—I said 85 percent—up to 85 percent of our growth in trade with Mexico has come outside the maquiladora program. Most of our products go to Mexico and they stay in Mexico.

What about competitiveness? NAFTA helps American competitiveness. NAFTA enlarges our whole market by 88 million Mexican citizens. That means 88 million more people that American companies can sell to. Why? Because Mexico agrees to lower its trade barriers, lower its tariffs. Their tariffs are much, much higher than our American tariffs on Mexican products. We all come down virtually to zero. Those tariffs come down, we enlarge our markets, and we can sell American products to 88 million more people more easily. As they grow, they will create a boom in consumer goods that will last for decades, and NAFTA will give us a permanent advantage over Japan, the European Community, and east Asia in this market, this market we are creating with NAFTA.

Finally, NAFTA encourages growth. NAFTA raises our American gross domestic product permanently by one-half percent. That is $25 billion a year, every year, increase in American gross domestic product as a consequence of NAFTA. Since a bigger economy means more revenue, it cuts the Federal budget deficit at the same time. It is a win/win. No serious economist disputes that. Free trade means more economic activity, and that means more revenue for Uncle Sam. More trade, more economic opportunity, more sales, more profits, more revenue. Every major trade agreement has brought in revenue. And so will NAFTA.

Some opponents claim NAFTA is going to be costly. What is the wildest exaggeration of NAFTA's costs? Totaling every NAFTA-related expense and tariff loss plus billions we have to spend on border cleanup and adding a few more billion just for the fun of it, NAFTA opponents say it could cost $30 billion. The $25 billion a year in new growth matches that in a year and 3 months and just keeps on going every succeeding year and 3 months. Our investment starts paying very quickly and paying very, very handsomely.

NAFTA also better protects our environment. Today we have a disaster on the border, an environmental disaster on the Rio Grande. The General Accounting Office finds that 8 out of 10 maquiladora plants operating along the border operate in blatant violation of Mexican environmental law. These maquiladora plants are across the border, south of the Rio Grande. Last June I visited Juarez. I saw a lot of these plants. I smelled the stench, saw the pollution. It is obvious. You cannot get away from it.

It is true, the maquiladora program has created pollution of tragic proportions. Today, 55 million gallons of industrial waste and 24 million gallons of raw sewage pour out of Juarez into the Rio Grande. Today 55 million gallons of sewage will gush into the Tijuana River; yesterday the same amount; and tomorrow; every day 55 million gallons of sewage gushes into the Rio Grande. We cannot do a thing about that if NAFTA fails—nothing. If NAFTA fails, we do not do anything about that.

But if NAFTA passes, under the environmental side agreement we can demand that Mexico begin to enforce its environmental laws, and we Americans can impose trade sanctions if they do not.

Of course, NAFTA sets a precedent for including environmental issues in the GATT and all other future trade agreements. That is very important. The precedential value of the environmental side agreement goes a long way. It explained why I think and many think that NAFTA should be adopted.

The National Audubon Society explains it perfectly.

NAFTA is a new kind of trade agreement—one which considers the environmental consequence of free trade, and one which attempts to change an unacceptable environmental status quo. * * * The interests of wildlife and the environment are better served with NAFTA and the side agreement than without them.

If some say, as some do, that this is still not enough, I say you are trying to achieve perfection, and you will make the perfect the bitter enemy of the good. Maybe you think the dispute resolution will take too long. Some folks in the environmental committee say just that: the dispute resolution settlement procedure takes too long, it does not sufficiently protect the environment. But I say what is the alternative? If we reject NAFTA, we have the status quo, and we will get enforcement right about the time the icicles are glittering on the roof of Hell. We will have to wait that long.

With NAFTA, Mexico will work with us to clean up the border. Without NAFTA we have to clean it up anyway. Mexico has no reason to help, and the maquiladora program, which NAFTA eliminates, will keep on pumping out garbage.

NAFTA is also a big step for helping labor standards in Mexico. The labor standards, the labor practices and abuses in Mexico are real. I have seen them. I have talked to Mexican child workers. You cannot help but be very empathetic with the labor abuses in Mexico when you are visiting plant workers, as I have and as many have. I was in one small home, 12, 15 people living there, just several small rooms. It is a cardboard paper construction; dirt floor. Out of the 12 people living there, only 3 were working, 3 girls. And you could tell the conditions they were working under were absolutely tragic, beyond description. I have seen it. I have talked to these people, and many, many have. The abuses are there right now and they are real.

But without NAFTA we can do nothing about them. The labor side agreement tackles, I must say, the worst abuses—that is child labor, evasion of minimum wage, unsafe worksites. If NAFTA passes, Mexico has pledged to tie its minimum wage to increases in productivity. All of these matters affecting working men and women will be improved with the passage of NAFTA because we will set a precedent for doing so, and there are actual provisions in the agreement to help make that happen.

There are some who say it is not enough, we have not included everything that we should have. We have not included the enforcement provisions to force Mexico to provide for collective bargaining. It is true that this could be better. It is true the labor side agreement could be better. It is true the environmental side agreement could be better. It is true other provisions of the agreement could be better. But the labor side agreement, the environmental side agreement, and the whole

NAFTA agreement are a dramatic, significant improvement over what we have today. Frankly, that is how things work. We never achieve perfection immediately. I do not think we ever achieve perfection. But trade agreements are—like most actions all of us take all the time—incremental, a step at a time. We reach progress, we become more successful, we advance the ball a step at a time. And NAFTA is a very major step forward, in helping working conditions in Mexico, in helping to protect the environment and provide for more jobs for Americans. It is a very significant step along the way. Altogether, NAFTA enlarges our home market from about 270 to 360 million consumers. It promotes U.S. exports in high tech, manufacturing, services, and agriculture. With side agreements, it makes Mexico meet high standards in environmental protection and labor rights.

NAFTA also does something else for us. It gives us some control over movements of capital. How does it do so? By allowing us as Americans to do in Mexico what Japan has done for itself in Thailand. There, Japanese companies have invested and assembled components shipped from Japan into products for export to the world. Japan thereby runs a trade surplus with Thailand while both their production and exports increase. Under NAFTA, United States firms should be able to do the same with Mexico; that is, run a surplus with Mexico while both production and exports increase.

In addition, Mr. President, it is important to note the European actions with respect to countries they brought into the community. The European Community brought Spain, Portugal, and Greece into the community when their wages were a third of Germany's. Since then, wages in both Germany and southern Europe have gone up. The same will happen here when we lower Mexican trade barriers and we can export more to Mexico.

It is very important to remember, in mathematician's terms, statistical terms, this is not a zero sum gain. That is, adding jobs in America does not mean fewer jobs in Mexico; adding more jobs in Mexico does not mean fewer jobs in the United States. Trade does not work that way.

Trade is a phenomenon where both countries find increased jobs and incomes rise with greater economic activity. That is important to know, and if it is a good agreement, that is what it will accomplish. In fact, all agreements are only agreed to in most cases and are good agreements if both sides gain. Mexico gains; the United States gains.

The United States gains more jobs, more income, better environmental protection. What does Mexico gain? Mexico gains increased wages, better living standards in Mexico and a better opportunity for investment. Both gain.

I say, Mr. President, since both gain, the agreement should be ratified.

I also say that if we reject this agreement, we will be sending a powerful signal to America, to the hemisphere and to the world that we Americans are beginning to retrench, we are beginning to be isolationists, we are beginning to be protectionist, we are beginning to abdicate our responsibility as a world leader.

I do not think that is a signal we want to send. I do not think that is something we want to do. I think, rather, the American people want to take the challenge of global trade; they want to accept the challenge that is presented to us because we Americans can compete with anybody in the world and we can compete very well and we can win the competition if we have the attitude—the positive can-do attitude—that we can go out there and get the job done.

That is why, Mr. President, I say we have no alternative but to follow the lead of the House of Representatives and vote to ratify the North American Free-Trade Agreement because that will be a ratification of our responsibility and a ratification of our belief in ourselves that we can meet the future and we can win.

I reserve the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I thank the Chair. Mr. President, I yield myself such time as I may require.

There is a certain sense, I think, that the debate in the Senate is a bit anticlimactic to the debate yesterday in the House. I think the result is preordained in the Senate. I will be surprised if we have less than 60 to 65 votes to pass.

Anyone who watched the House yesterday saw the House of Representatives at its best. I thought that the debate on both sides was as elegant a debate as I have ever seen in any democracy, and the House can be proud of the way it conducted itself.

Today, I guess, is cleanup because, as I say, we know it is going to pass the Senate and it should pass. So let me just amplify a few points, realizing that they may be anticlimactic.

Let us take a look at Mexico first. We may have in this country a wrong idea of Mexico. We think of Mexico as a Pancho Villa-Emiliano Zapata country of ragged peasants revolting against a bureaucratic dictatorship and poverty throughout the country.

That is not Mexico today. This is not to say that Mexico is a rich country; it is not. But it is not Bangladesh; it is not Haiti. It is not poverty-ridden. It is perfectly able to take care of itself. It has extraordinary natural resources, and since they started in the mid-1980's to privatize and open the economy, both their economy and their wages have grown exceptionally.

They have become our third largest trading partner, and here I do not mean, Mr. President, per capita, I mean our third largest trading partner. That is a significant fact.

Do you know, Mr. President, that Mexico per person spends more money on American products every year than any country in Europe or Japan? And we think of Europe as rich, we think of Japan as rich, we think of Mexico as poor. Yet they buy per person more American products than any country in Europe or Japan.

A poverty-ridden country cannot do that. So let us dismiss this idea that they cannot buy our products. Our exports are up 240 percent to Mexico in the last 7 years. We have about 400,000 jobs in this country dependent on exports to Mexico, and we project another 200,000 will be created between now and 1995. When this agreement is in full effect, you will have an economy that today is about $6.5 trillion—counting Canada, the United States, Mexico—about 370 million people in a North American-wide free trade agreement.

I know one criticism: In some cases, it is not fast enough. The other case is, it is too fast. It depends upon the industry. Those who want access to the Mexican market and find that they are limited now by tariffs or nontariff barriers, would like to snap their fingers and eliminate tariffs and nontariff barriers today.

Those who have some misgivings about Mexican imports are saying we should phase this in over a longer period of time. I understand the President's dilemma and the U.S. Trade Representative Mickey Kantor's dilemma in trying to negotiate this agreement. It is not perfection. No one got everything they wanted.

There is basically a 0- to 15-year phaseout of barriers. Some of them occur immediately. Some of them occur over 5 years, some of them 10, the longest 15. But we can say this: 65 percent of all the tariff barriers to our industrial and agricultural products will be gone in 5 years. That is an immense step forward, and for the foreseeable future we are going to sell infinitely more to Mexico than we buy from Mexico.

Now the question arises: Are we going to lose some jobs to Mexico? And the answer is yes. These are jobs that we are already losing to Singapore or India or Pakistan, Sri Lanka or Bangladesh. They are basically not high-wage jobs. They are low-wage jobs that require a great deal of hand labor.

One of those industries is apparel, and I want to distinguish, however, apparel from textiles. Textiles, of course, is the making of the cloth. Apparel is the making of the garment.

A good example to consider in this situation is Japan. Twenty-five years

ago, Japan was one of the top 10 producers of both textile and apparel exports to the world, both the cloth and the garment. Today, Japan is not in the top 25 of apparel exporters. I would defy you to go to any store and find a suit, a shirt, a pair of shoes that say "Made in Japan." They may be made in Korea. They may be made in the Philippines. They are not made in Japan.

The reason they are not is Japan realized that in the area of apparel low wages were an advantage, although I wish to emphasize this has never been a high-wage industry. Even in the unionized apparel industry in the United States it is not a high-wage industry. It is not a steelworker's wage, an auto worker's wage, a machinist's or a teamster's wage. It is a low-wage job.

Japan is still a top 10 producer in the export of textiles, however, because that is a capital-intensive, very modern industry. Indeed, the bulk of the textile industry in this country supports this agreement because they know full well that they can compete in Mexico with textiles made in the United States.

We are going to have to realize something. The era of the manufacturing economy as the predominant part of the economy is over. By this I do not mean to say that manufacturing is going to shrink. What I mean is, as a percent of the whole, other industries are coming along that were not here 10, 20, 30, 40 years ago. This country is still a manufacturing giant, because we have become increasingly more productive over the years. I do not know why we should not be proud of that.

I talk about agriculture. We boast of our agricultural productivity. While I do not remember the exact figures, 100 years ago something like one-half to two-thirds of the people in this country worked on the farm and barely produced enough to feed themselves. Now, barely 2 people in 100 work on the farm, and they feed us and the world because agriculture is so productive.

There are very few industries in this country, manufacturing, service, or otherwise, that are as productive as agriculture. A husband and wife and a couple kids can run a 2,000- or 3,000- or 4,000-acre wheat ranch with a tremendous capital investment in combines and tractors and equipment and can outproduce anybody in the world, no matter what the agricultural wages may be.

It is in the industries where we will be most productive that we will continue to be competitive. Some of those industries have never been included before in trade agreements. Always in the past, we thought of trade, by and large, in terms of goods—cars, machines, boats, things. That was understandable 30 years ago, 40 years ago, when the bulk of trade between countries was in goods like autos, machines, caterpillar tractors.

But we live now in a new era where trade involves infinitely more than goods. It involves what we call services—banks, insurance companies, communications, accounting, trucking. All of these were never considered in past agreements. All of these are now included in the North American Free-Trade Agreement. Every one of these industries is absolutely straining at the bit to get this agreement in place and get access to the Mexican market.

These are the industries, Mr. President, where we lead the world. There is no equivalent worldwide of American Express and its dominance, or Visa or Master Card. Those are American industries—service industries, granted, but American industries—that are tremendous dollar earners.

There is no industry worldwide that is the equal of Hollywood. Oh, sure, they make movies in Japan; they make movies in France. But do you know what industry dominates the world? The American entertainment industry does. In this agreement, there are vastly improved intellectual property rights for that industry. I wish we could get the same kind of protections in the so-called Uruguay round of the GATT, the General Agreement on Tariffs and Trade, that we have gotten in the NAFTA.

In the extremely well-paying, highly scientific industry of the manufacture of medical equipment, there is nobody that holds a candle to what American manufacturers of medical equipment do. We have a tremendous trade surplus in that business, which pays very high wages.

These are the kinds of things we can do, Mr. President. These are the kinds of things we ought to be concentrating on.

Now, let us look a moment at this argument about wages. You know the argument: 50-cents-an-hour labor in Mexico. First, it is not 50 cents an hour. But it is significantly lower than ours. The thing we have to realize is that in most industries wages are somewhere between 5 and 15 percent of total costs.

You go to any of your electronics industries and ask them what their floor labor costs are. By floor labor, they mean the manufacturing labor, the hands-on labor, not their research and development. They are not going to move their R&D or their management. Their floor labor costs. What are they? It does not matter whether we are talking about Hewlett-Packard, Techtronics, Intel: 6 percent, 7 percent, 8 percent, 9 percent of costs.

It is not worth moving your plant to a low-wage country for those differences in labor costs when labor is a small portion of your total costs.

I can give you a couple examples from Oregon. Freightliner Corp. in Portland has within the last year or so, become the largest manufacturer in the United States of big trucks on the roads. They have overtaken Navstar, the former International Harvester Co., as the biggest manufacturer. They have a large plant in Portland, organized by the Machinists Union, which assures that these jobs are high wage.

Freightliner at the moment is sending about 50 million dollars' worth a year of kits to Mexico to be assembled in Mexico for distribution there because current Mexican trade barriers.

When this agreement is in effect, they will not be shipping the kits to Mexico anymore. They will be manufacturing the trucks in the United States, which I hope will be in Portland, although they do have a plant in the Carolinas. They will be manufacturing the trucks in the United States, adding jobs, adding value, and sending the finished trucks down to Mexico for sale. They will not be going to Mexico to manufacture them.

I will give you another, much smaller company, Landa. They make waste water recycling products. Mexico has made an immense commitment to environmental cleanup, and waste water recycling is obviously a big part of environmental cleanup. Landa had been considering sending their products in kit form to Mexico just like Freightliner, to assemble them there. With this agreement in place, however, they do not plan to.

I could go down company by company in Oregon. For example, R.M. Wade, which makes irrigation equipment. Mexico has very poor irrigation facilities and not a lot of water, which they need to use more wisely. R.M. Wade sells its irrigation equipment all over this world—Egypt, the Middle East—and looks at Mexico as an absolute cornucopia of a market for irrigation equipment.

Take Sabroso, in Medford, OR. It makes fruit purees and nectars for fruit drinks and baby food. It is the largest supplier of this product to the three principal baby food manufacturers in the United States; as I recall, Beechnut, Heinz, and Gerber. It already trades freely overseas. A tremendous portion of its gross income is overseas. You can go through their plant and see labels in French for the Canadian market, in Spanish for Latin America, and in Italian for the Italian market. They sell everyplace and they look at Mexico, with its population, its very young population, and see it as a cornucopia of opportunity.

Now, this company is in Medford, OR, 300 miles south of Portland and roughly 400 miles north of San Francisco. It is served by an airline, which is not a major airline. It has a good airport, but is not Denver or Portland or Chicago. It is on the interstate highway and has good trucking facilities. But some people might say, well, it is out of the way. Medford is not out of the way, but it is not a major hub. Yet this company and this town, which can compete and

are competing anyplace in this world, will compete in Mexico.

So I think any argument that relates to wages is simply fallacious except for those possible industries that are low wage, not high wage. You cannot afford to pay high wages in an industry that is not productive. You can only afford to pay them in industries that are productive. But in every trade agreement—every trade agreement—there are tradeoffs. You realize that it is not a zero sum game and each country is going to gain from an agreement. But in some industries, you are going to have some shifts. For that, to his credit, President Clinton is suggesting a rather significant worker retraining program.

No, this country does not need to worry. We have the best infrastructure of any country in the world. We have the best communications system. For all of our complaints about education, we have a very well-educated labor force. We can compete best of all in high-wage, high-productivity industries. That is what this agreement is going to give those industries an opportunity to do.

I will make this prediction, Mr. President, in closing. As we talk today, we have—let me address this question to Senator BAUCUS. How many more days do we have on GATT negotiations? About another 3 weeks or so?

Mr. BAUCUS. Three weeks.

Mr. PACKWOOD. About 3 weeks. Here is a massive trade agreement involving over 100 nations in the world that is supposed to be concluded in 3 weeks, and there are still significant issues left open. I cannot speak for the Senator from Montana, but if some of those issues are not satisfactorily resolved, I will not support the GATT agreement unless in the areas of agriculture, intellectual property, and some others, there is a satisfactory resolution. I am not going to vote for a bad agreement just to get an agreement.

Whether we can get an agreement in the next 3 weeks, I question. Whether we can get a really satisfactory agreement in the next 3 weeks, I seriously question. But I have no question about this North American Free-Trade Agreement. I will make this prediction: Once this is ratified, within 2 to 3 years, Chile will join and shortly thereafter Argentina. Within 5 to 10 years, we will have the makings—not completed and concluded, but the makings—of a Western Hemisphere free-trade agreement in which the United States will prosper by selling jet engines in Venezuela, oil rigging equipment in Ecuador, and services all over Latin America.

Mexico is just the first step, a good step, a big step. It is a big country. It is an important country. It is only fitting that the first expansion of the United States should be to Canada on the north and Mexico on the south. But I think this is the greatest opportunity for U.S. growth—and I will expand it and use the term American in the hemispheric sense—the greatest opportunity for American growth that we are going to see in this generation.

Again, I applaud House of Representatives. They had to take the initial step, and it was a courageous step. We will take this step tomorrow, and we will pass it by a handsome margin. I hope it will be in excess of two-thirds, but it will be close to it.

I am proud of the President, proud of this country, proud of what the House of Representatives did, and I am happy to strongly support the ratification of this agreement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time would the Senator from Vermont like?

Mr. JEFFORDS. Fifteen minutes, if that is all right.

Mr. PACKWOOD. Mr. President, could I say this: I forgot the Senator from Montana and I are on the same side of this, and the pro side only has an hour this afternoon. How much have we used up?

The PRESIDING OFFICER. The Senator from Oregon has 10 minutes and 28 seconds, and the Senator from Montana has 4 minutes and 20 seconds.

Mr. PACKWOOD. We cannot give the Senator 15 minutes.

Mr. BAUCUS. Mr. President, I think the only solution we have at this time, unless the majority leader wants to give some more time, is for perhaps the Senator from Oregon to yield as much time as he wants of the 10 minutes to the Senator from Vermont. I have to reserve some time for our side.

Mr. PACKWOOD. I yield the remaining 10 minutes that I have.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, it is with a sense of quiet confidence and satisfaction that I rise to endorse the North American Free-Trade Agreement. I feel it is in the best long-term interests of the United States and Vermont.

In the next several months Congress will have many historic votes. These votes will set the direction for the post-cold war era. NAFTA is one of these votes. It goes to the heart of our economic and foreign policy.

NAFTA will be the first time that two developed nations will be forming a free-trade agreement with a developing nation. It is for this reason that I have taken ample time to be sure of my decision.

Over the past few weeks, whether speaking with business men and women, or educators, or people concerned about foreign affairs, I have found myself time and again coming back to the thesis that our Nation has really two choices before it.

As we enter the 21st century, we can choose to continue to be engaged politically and economically in the more open world we have helped to create; or we can choose to turn inward and seek to shelter ourselves from the competitive and sometimes chaotic world beyond our shores.

I think we must choose engagement. Whether educating our children for the world of work, or determining our role in a pose-cold war world, we cannot withdraw from the world around us.

NAFTA will not solve the problems we face. But neither should it be the scapegoat of our fears. If the dire predictions are true, we can cancel the agreement in 6 months. But there is no way we can regain the opportunity lost if NAFTA is defeated.

The alternative to engagement, as Mr. Perot suggested the other day, is to erect a wall of tariffs around our country. The results of such a strategy would be disastrous. It might seem attractive for the near future, but gradually our competitiveness would suffer and eventually our standard of living would decline.

Politicians are often criticized for having vision that only extends to the November of their election. I think that Congress and the country must take a longer view. The benefits of NAFTA may not be apparent in the next 11 months, but I believe they will be apparent over the next decade and beyond.

This is certainly the view of those who have looked most closely at this issue. At last count, 22 of 23 of the major serious studies analyzing the probable impact of NAFTA predict increased employment, increased wages, or both. The support for NAFTA among academic economists and researchers is overwhelming.

Vermonters are obviously divided. I have had countless conversations with people, all with sincere, thoughtful, and diverse views on this subject. I've talked to employers and employees, members of United We Stand, farmers, environmentalists, and others. Every one of us is concerned about where this Nation is headed, and what this agreement would mean for our future.

None of us has a crystal ball. But I think the record of the past is clear: Free trade works. The economic gains we have achieved since World War II are largely due to the explosion in international trade since then.

The record in my home State of Vermont is equally clear. Only two States in the United States are more dependent on trade than Vermont: $1 out of every $8 of the business we do is based on exports, nearly triple the average of the Northeast; 19,400 Vermont jobs are supported by trade with Mexico and

Canada, jobs paying about 17 percent above average.

I think Vermont can look forward to growth under NAFTA in some of our most important manufacturing and service sectors such as computers and electronic goods, information systems, machine tools, and other industrial equipment, financial services, and medical devices. These sectors are all on the best prospects list as issued by the commercial section of the American Embassy in Mexico City.

More specifically, I think our dairy industry should benefit from NAFTA, indirectly if not directly. Mexico is a milk-deficient country and Mexican imports of United States dairy products are expected to grow moderately under NAFTA. Mexico is already far and away the best market for our milk, last year importing $160 million worth of our dairy products and this year headed toward a total well over $200 million.

In the 6 years since Mexico began to liberalize trade with the United States, Vermont's exports to Mexico have grown 723 percent. Mexico is our country's third largest—and fastest growing—export market, after Canada and Japan. Mexican per capita imports from the United States totaled $450 per year, more than Japan or Europe. And the bottom line is that we ran a net $6 billion trade surplus last year with Mexico.

We are running this surplus with the deck stacked against American workers and employers. Mexico's tariffs are 2½ times as high as ours and Mexico also relies heavily on nontariff barriers to keep our goods out. NAFTA will, over time, eliminate these Mexican tariffs and barriers.

It is hard to see how leveling the playing field will hurt us. There is no certainty, by definition, with a free-trade agreement. But neither is there any certainty to the status quo. American companies have and no doubt will continue to relocate in Mexico. Some companies' decisions are driven by labor costs, others need to be near the growing Mexican market. And still others must move to Mexico to surmount the trade barriers that NAFTA would strike down. Voting down NAFTA could have the perverse effect of accelerating this trend.

There is, however, one certainty in this debate. Voting down NAFTA will do grave damage to our relations with Mexico and Latin America. Mexico in recent years has taken fundamental steps on internal economic and political reform. It has adopted a much more open attitude to cooperation with the United States, which has put our relations on a far more constructive and mutually beneficial basis than they have been in the past.

NAFTA is essential if we are to consolidate these gains. It is also a key to encouraging through trade, not aid, the kind of economic growth in Mexico that can ensure a better life for the Mexican people and continued political stability on our southern border. Facilitating this growth and stability are vital to solving a number of knotty problems, such as the continuing cross-border flow of drugs and illegal immigrants.

Mexico has a long ways to go toward improving its environmental and labor standards. Our own record is far from perfect, and we must guard against pious preaching. But we can exercise leverage in both areas with this agreement. We will have a legitimate reason to insist that the Mexican Government enforce its own laws. Without NAFTA, we can probably count on Mexico's turning a deaf ear to our advice.

The rest of South America is watching. For years we have urged free market reforms on most of these countries, and held out the prospect of increased trade. A rejection of NAFTA, quite simply, would undermine such prospects, squander the opportunity for U.S. leadership, and cast a protectionist shadow not only on our future trading relationships in our own hemisphere, but on GATT and the world trading system in general.

Protectionism is a false promise. It is comfortable for the short term, but deadly in the long term. We cannot retreat from the world based on a pessimistic appraisal of our capabilities. They continue to be nearly endless—if we have the wisdom and will to make the most, rather than the least, of them.

Mr. RIEGLE. Mr. President, I ask unanimous consent to yield myself 15 minutes from the time under the control of Senator MOYNIHAN for the opponents of NAFTA.

The PRESIDING OFFICER (Mr. KOHL). Is there objection?

Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I want to start right in following my colleague from Vermont [Mr. JEFFORDS]. I hold the seat in the U.S. Senate once held by Senator Arthur Vandenberg, who clearly was a person known during his service for his outward looking view toward the rest of the world. When we dealt with the United States-Canadian Free-Trade Agreement in the Senate Finance Committee and on the floor of the Senate, I was one of those voting for it. But I am strongly opposed to the NAFTA agreement because it falls into an entirely different category, and I think it will be very, very damaging to our people and to our country.

I want to get into some of the reasons why. I want to say this to my friend from Vermont before he leaves the floor. When he talks about isolationism, our problem is not isolating ourselves from the rest of the world. We have spent billions of dollars around the world helping people in every kind of conceivable situation. We are a very outward-looking Nation. Our problem right now is really with isolating our own people within our own country. The growth of the underclass in America is not just in the cities, but in rural areas of Michigan and Vermont. There are the people who need work and cannot find it, such as a young college graduate coming out with excellent academic record, who has circulated resumes and is not finding a job and ends up moving back with his or her parents; white-collar professionals in the defense industry, or in banking, or in telecommunications, experts in computer technology, who have lost their jobs and bounce around for months on end, and if they are lucky, eventually they find a replacement job—usually at a much lower rate of pay.

The analysis of what is happening in America economically over the last, say, 20 years, is that we are grinding down the middle class. We have many people in our society sliding backward, out of the middle class and into lower income areas, no matter how hard they work. And there is a growing underclass of people who cannot get any jobs at all. So when we talk about isolationism, I think we first have to look at how we are isolating our own people.

NAFTA, at the end of the day, is a jobs program for Mexico. There will be many American jobs leaving and going to Mexico, as many hundreds of thousands already have. But that is only part of the problem. They are closing factories, plants, and businesses here and moving down to Mexico to take advantage of low-cost Mexican wages and low environmental standards, and other things of that kind. What is also going to happen is you are going to see the economic hydraulics between the two countries working a way to pull down wages and benefits for workers who stay here and work in the United States.

What is going to happen, and we have seen evidence of this already, is that in many areas of the country workers are going to be told that if they are not willing to settle for lower wages than they are now earning, or smaller benefits, reduced benefits than they are now receiving, they will be threatened with the prospect that their job will be moved to Mexico, or some competing firm in Mexico will take the market share and they will lose their jobs that way.

So you are going to see the continued downward pressure of wages and benefits for workers who are still working here in the United States. That is the hidden part of the NAFTA problem nobody is talking about.

It is easier to measure the problem of the company or plant that actually closes, as many have in Michigan, and moves to Mexico. But other people in

this country are going to find their wages and benefits drawn down because of the low wages in Mexico.

Someone talked about the minimum wage in Mexico which is 58 cents an hour. Many work for $1.25 and $1.50 an hour.

I think, without in any way not having an outward-looking international view, we have to think about how this is going to work in terms of creating isolationism right here in the United States—with our own people, in urban areas and rural areas as well.

People in America today are desperate for work, and we do not have enough work to go around in many communities today. Where there is hard-core unemployment in inner cities, it is easier to find a gun than a job. That is not a prescription for a healthy society or a trend line we want this country to take in the future.

Recently, in Owosso, MI, I met with several women workers who lost their jobs because their plant closed and moved to Mexico. I do not have the notes with me of the conversations, but I will have later in this debate. I want to give first-person quotes they gave me. I remember some of them from memory. These women are poverty stricken today, trying to raise families, and they have no extra money. They tell me they buy all their clothes at yard sales, buying used clothes. They cannot afford, do not have the money, and cannot go out and shop in Kmart or other kinds of stores that other people shop at.

I asked if they ever imagined someday owning a new car. We heard talk earlier about selling more new cars down in Mexico. Frankly, I do not see much of a market down there because incomes are so low in Mexico.

Leaving that aside, how about having a job here in the United States so workers here have a prospect someday of being able to buy a new American car themselves.

These women raising families in Owosso, MI, are driving old cars, old rattletrap cars that ought to be off the road, but it is all they can afford. They have no money for anything more than that. They cannot find work that pays a living wage.

They talked about the prospects facing their children. They are having a hard time convincing their children to stay in high school because when they come out the only thing they have to look forward to is a minimum wage job in McDonald's or Burger King, if they are lucky enough to land one at all. There is not much prospect.

How about a jobs program for America? What NAFTA will do is bring 60 million Mexican workers into our work force: 60 million Mexican workers coming into our work force, competing for the jobs that are there now. And there are not enough jobs there now just for the American people, let alone adding 60 million new Mexican workers into our work force.

What do we get on the other side in exchange for those 60 million new workers who earn very low wages and very few benefits and workplace protections? We get a 4-percent increase in the market that we might sell into. That is a tiny increment of the available market, to the extent that we can perhaps sell more into it. But we are taking in all these additional workers at a time when the No. 1 problem in America is we do not have enough jobs to go around for our own people.

I said before on this floor, if you live in America today and you do not have a job and you cannot find a job you are nobody. It is like you are invisible.

I see that happening here. This is the case where the economic elitists have brought in the NAFTA, and it is directly against the working people of this country. It is the economic elitists against the working people of this country.

Around this city there is a beltway. There is a large superhighway that runs around here that is called the beltway. And you have heard the phrase many times "people inside the Beltway." It is a ring of golden privilege. Within this ring of golden privilege, you have all the economic elitists, those who live here, and all of them who are for NAFTA are out of the line of fire. They do not have to worry about losing their jobs, do not worry about the plant going to Mexico, do not worry about a $7-an-hour wage being reduced to $6 an hour, and the health care program they may have, which is anemic now, being reduced even further.

No. The people, the elitists here are out of the line of fire.

The reason I feel so strongly about it—and I admire the colleagues in the House, led by DAVID BONIOR, who fought valiantly against it—it reminds me very much of the Vietnam war, I say to my friend from Kentucky. I was here and served in Congress during the Vietnam war. I have been here with seven Presidents, starting with Lyndon Johnson. Back in that time during the Vietnam war many of the economic elitists thought the Vietnam war was a great idea. They did not have to go and fight it—or send their sons and daughters to go and fight it.

When you go down to the Vietnam Wall and read the 59,000 names of the rank-and-file people fed into the meat grinder of Vietnam, you do not find too many names of the economic elite of the country. You will find one here or there. There are very few because that was a war fought by rank-and-file people.

The number of jobs we are going to lose under NAFTA would create a new kind of Vietnam Wall. People who lose their jobs and lose their livelihoods will be 10 or 20 times larger than the number of names on the Vietnam Wall. There are 59,000 on the Vietnam Wall. I can easily foresee 500,000, perhaps as many as 5 million when this thing plays itself out in terms of people of this country who will lose their jobs and livelihood because of the tremendous pressure of these low wages and all this surplus labor in Mexico. But we are not going to build a wall and put all those names on it. We are not even going to know who the names are.

I will tell you they are not going to be the names of the economic elite, those out leading the charge for NAFTA, because they are all safely protected and out of the line of fire. It is going to be names of rank-and-file people from my home town of Flint. It is going to be the rank-and-file people from across the State of Kentucky, across the State of Vermont, all 50 States, who are going to be the ones who take it right between the eyes. We are going to tell them, well, you go ahead and believe in America; we do not have a job for you, do not have any plan to replace the jobs you are going to lose; but we want you to go ahead and be for NAFTA anyway.

It was so ironic, when I looked at the votes here yesterday, because when I see the President with Rush Limbaugh standing on one side, and NEWT GINGRICH, Senator PHIL GRAMM, and others standing on the other side. I know good and well that when we tried to get a job stimulus program earlier in the year to try to provide some jobs for our people, not for Mexican people, these same people were dead set against it, they blocked it. Now they provide most of the votes to pass the NAFTA in the House of Representatives yesterday. Most of the votes came from the Republicans who in turn are against any job program for this country.

There were 132 House Republicans who voted for it. And I say to the credit of the 43 Republicans who voted against it, thank you for standing up on this issue. There were only 102 Democrats who voted for it; 156 House Democrats voted against it—156 Democrats in the House voted against it—a substantial majority of the Democrats in the House, most of them coming from areas in the country where they represent working people and a large part of what is left of the middle class of this country.

That is who is being stepped on here. They are the ones who are going to lose their standard of living, in many cases are going to have their economic foundation ripped right out from under them. That, to me, is isolationism here at home, walking away from the jobs of our own people.

How about a jobs program for America for a change? But I will tell you this: If someone walked in here right now—and we cannot do it under the rules—but if someone walked in right now and offered an amendment to provide the money for a job program and

a job retraining program and lifetime learning and all the other things that are being talked about for everybody that is going to lose their jobs under NAFTA, the votes are not here to pass it. And our friends on the other side of the aisle that want the NAFTA enacted, are not prepared, frankly, to vote for the kind of the help that all the displaced American workers are going to require.

So this NAFTA is really George Bush's revenge. He lost the election, but he left the poison cup in there on the desk in the White House and, unfortunately, this administration has come right along and taken the cup and moved ahead with consuming it. So now we are in a situation where we are going to face, I think, very damaging job losses in this country and we have no real strategy to deal with it.

I want to say one other story here in the time I have. I grew up in an industrialized neighborhood in Flint, MI—on Dakota Avenue. I went back the other day. When I grew up there, almost everybody worked in the Buick motor car factory in Flint. On the corner of Franklin and Dakota, about five houses from where I lived, I noticed something new there. What is new is a 24-hour-a-day laundromat. I was surprised to see that in a residential, essentially low-income neighborhood.

As I looked at it and I thought about it, I realized what has happened. What has happened is that more and more people in the neighborhood that I grew up in, working people, cannot afford to own their own washing machine and their own dryer. And as a result, because they do not have the income to be able to buy them, they have to take their clothes in clothes baskets down to the corner laundromat and drop quarters into the washers and dryers in order to get their clothes cleaned in that fashion.

Now, 40 years ago in this country, when I was growing up as a kid in that working class neighborhood, we did not have a lot of money, but we were well enough off that most of the people in my neighborhood could afford to buy a washing machine. It was the old kind with a wringer up at top where you squeezed the water out and so forth.

Today, I go back to my same neighborhood, people working harder today than they did then, and they cannot earn enough today to buy a washing machine to have in their own house or apartment. It is an illustration that we are sliding backward.

I can see why it is that people inside this golden ring here called the beltway do not understand it, living in the lap of luxury and privilege. Even U.S. Senators, who earn $133,000 a year, way beyond what most people in this country earn, if we had to settle for one-seventh or one-ninth of that, which is the prevailing wage scale in Mexico, if we were faced with a direct kind of competition for our jobs, people here would not like it very much, and they might see things a little differently.

The same is true for the editorial writers and the other big shooters in this country that think this NAFTA is such a great deal. They think it is, because it is good for them, not because it is good for the country. Because they do not understand what is going on in the country. They do not live out in the country. They do not have to live and survive like most of the other citizens in our country.

People talk about job retraining. For most people, it is a meaningless phrase. I got a letter the other day from a man in Texas with a master's degree who has been through three job retraining programs. He writes a very good letter. He cannot find a job. That is true all across the country. Yet we are going to create a situation where we are going to open up our job market to 60 million new workers coming in from Mexico. That is what we are talking about here. It makes no sense whatsoever.

I ask for 5 additional minutes off the time of the Senator from New York.

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

Mr. RIEGLE. I thank the Chair.

That is why yesterday in the House of Representatives the majority of the Democrats—156—and 43 Republicans, many of them coming from districts where working people are found in this country, these House Members who run every 2 years and are out there listening and watching what is happening—they understand the grave dangers of the further erosion of the job base of this country. They know NAFTA is going to make it worse, and that is why they came on in here to vote against it. And I applaud and admire each one of them for doing so, because there was a tremendous onslaught of pressure for House Members to vote for NAFTA. Tens of millions of dollars were spent by the Mexican Government. They came here to Washington inside this golden ring and they bought all the lobbying firms downtown, Republican and Democrat. The former Trade Ambassador for our country, William Brock, was hired at $30,000 a month by the Mexican Government; $360,000 a year. That is more than we pay the President of the United States.

But the Mexicans were happy to buy that kind of influence because they knew in the end it would yield votes here, and unfortunately it did.

Two weeks ago we had the votes in the House to defeat the NAFTA. What happened to change that? Every news outlet in America has reported that what happened to change it was the checkbook of the American taxpayer was opened up, and the administration began offering favors and promises, peeling off the votes they needed so they would have enough votes to turn this thing around. There are stories about airplanes, about aircraft carriers, this, that, and the other. It is well documented. As I say, every news outlet in the country has commented upon it. That is what turned the vote around.

I can tell you this: If those of us on the anti-NAFTA side, if we had the checkbook of the country—and we are not prepared to play that game, but had we had it and played that game, there is no way in the world this thing would have passed. That is what turned it around. But that is special-interest favors, and that is using the people's money against their own interest. And that is what happened here.

It is going to be the little people out across the country that take it right between their eyes, and they are going to be names we never even know. When somebody loses a job in a plant because it goes to Mexico, who is going to write their name down? How does their name get into the newspaper or get here on the Senate floor? No; they are going to be the anonymous losers in this whole thing, and the country is going to be the loser.

When the country of Turkey wanted to come into the European Common Market with wage and benefit differentials similar to ours and Mexico's, they were turned down by the Europeans. They were turned down because no country has ever gone into a free-trade agreement with a bordering country with standards on wages and workplace protections and environmental protections as low and as different as in the case of the United States and Mexico. It has never happened before.

You know why it has never happened before? Because it has never made sense before, and it does not make sense now.

So I realize that this is a game. It is Wall Street versus Main Street. And Wall Street has the money and the muscle to win this one. And they are in the process of doing it. Even though they did not have the votes 2 weeks ago, when the Government checkbook came out they were able to get the votes in the House of Representatives, sad as that may be to say.

And I suspect that when the votes are finally taken here, there may well be the votes in the Senate—it certainly looks that way now—to pass the NAFTA here.

But this is going to be very damaging to our country, and it is going to be an isolating experience for more and more people in America who need jobs to support themselves and to support their families.

I just hope that for the people out across the country right now who are struggling to get by, who cannot find work, or are working on a temporary basis because that is all they can find, or working at the minimum wage and cannot eke out enough money to even think about a downpayment on a house

or buying a car or going out to shop like other people with higher incomes, I want that group to know that even though the fix is in on NAFTA because of all of this money pressure supporting it, that a day will come, a day will come—and it may be an election day, it may be some other time—when I think the working people of this country are going to find themselves back in a position of real power, and they are not just going to get mowed down and paved over here within this golden ring of privilege by those people who are supporting NAFTA today and using the resources of the Government, in fact, to line up the votes when the votes are not out there in the countryside.

So that is what is at stake here. I hope to speak more about it later, and I want to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

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

Mr. PACKWOOD. I have no time left, is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I ask unanimous consent that I may be yielded 1 minute.

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

Mr. RIEGLE. Mr. President, I have no objection, but if a minute is going to be added on one side, just in the name of fairness I want to make sure it is added to the other side.

Mr. PACKWOOD. I do not want to add. I would subtract it from the time that would be allocated to the Republican side.

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

Mr. PACKWOOD. Mr. President, I have spoken earlier about the advantages to this country and Oregon. I want everyone to understand very clearly that in Oregon, about one job in six is dependent upon trade. NAFTA and free trade for Oregon are a lifeline and not a millstone. We are going to prosper greatly if this bill is passed, and I am confident the country may do the same.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged proportionately to those who are managing the time.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, I want to just pose a question to the Chair and to my colleagues who are on the floor. Of the time that was divided, the time of the proponents is about to expire; the time of the opponents still has probably 40 minutes to run. When the time of the proponents has run down to zero, I would like the quorum call time not to be counted against our side at that point. I do not think it is fair to have that happen, because we have others who want to speak.

So I would rather that the time of the quorum call not be run against the clock of those of us who wish to speak against the NAFTA.

Mr. BAUCUS. Mr. President, the consent request which was agreed to was that the time be charged proportionately to the floor managers. I think that is the fair solution.

As a consequence, because there is very little time left for the proponents, as time is running there will still be some time left, not a lot. But time will also be—more time will be left to the opponents because the opponents now have so much more time remaining.

Mr. RIEGLE. I hear what is being said. I want to protect the time of our side so it is not just run off in a quorum call because we do not have Members here at the moment ready to speak.

Mr. BAUCUS. Naturally.

Mr. RIEGLE. I do not mind doing it for a short period of time, but if we are going to have additional time running against a quorum, I would like not to have it running against the NAFTA debate, at least for those of us who are opponents. I will leave it there, but I would like to serve notice I would like not to get into that situation because I do not think it is fair.

The PRESIDING OFFICER. Is the Senator from Michigan propounding a unanimous-consent request?

Mr. RIEGLE. Would it be appropriate for me to suggest that once the time has been drawn down now, of that that has been allocated to the side of the proponents of NAFTA, at that point we not continue to run the clock down against those of us who are opponents until such time as we go back on the subject? I would rather the time be charged against the Senate and not against our allotment of time as opponents of NAFTA once the time has been exhausted on the other side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If the Senator from Michigan were to make that request, I would have no choice but to object to that request because it is the intent of the agreement that the majority leader secured roughly an hour and a half ago that each side have the same amount of time, proponents and opponents. The proponents have used up most of that time. There is time remaining, more time remaining for the opponents. But if there is going to be a quorum call the only fair allocation is that the time be charged proportionately, that is in proportion to the amount of time remaining on each side.

Mr. RIEGLE. I will withdraw the request at this time. But I urge, then, Members who want to speak against the proposal—we now have time available to us; it has come rather quickly—I urge them to come to the floor so we do not have our time lost in a quorum call as opposed to the time when Members can present their views.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it will be charged proportionately. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. 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. PACKWOOD. I yield 5 minutes in opposition to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. Mr. President, first I want to make it very clear that this Senator is very much a free trader, coming up through the free enterprise system and being in business in Montana. So I rise today to vote against what I think is a bad bill. It is not a bad idea, but I think it was a good idea that turned into a bad bill.

I have been sitting on the fence for the last 2 weeks not knowing what was going to come out of the House of Representatives until all the work was done last night. After we look at it now, after months of working to plug all of the holes in the NAFTA, I think the final product is going to put a lot of Montana jobs at risk and, overall, have a negative impact on our State's economy.

The Montana AFL-CIO estimates 7,000 Montana jobs are threatened by NAFTA. I have looked at this treaty every way from Tuesday. I have not found many reasons to question that number, and I have several reasons that convince me it is true.

I do not often stand with the Montana AFL-CIO, but I think I stand up for a whole lot of men and women who go to work every morning to earn the wages that feed their families. NAFTA is a bad deal for folks who eat their midday meal out of a dinner bucket.

Sure, big business tycoons, bankers and the like see NAFTA as right up their alley. "If it's good for General Motors, it's good for America," an extremely wealthy man said once. Well, NAFTA may be good for the stockholders at GM, but the men and women who work for wages might be a little disadvantaged and take the brunt of this agreement.

The U.S. House of Representatives approved the treaty Wednesday by a

234-to-200 margin. The President bought off a lot of votes with promises of pork. That whole episode disappointed me because I believe this is a vote of your conscience, not how much you can sell your vote for.

The U.S. Senate will vote on the treaty in the next day or so. It'll pass by a handy margin. But, it's going to pass without the support of the junior Senator from Montana, and I'd like to tell you why.

It is very clear that Montana jobs in the agriculture, mining, and gas and oil sectors will be put at risk because of Mexico's ability to produce wheat, corn, minerals, and energy in direct competition with Montana producers.

Montana's oil and gas industry is just now beginning to dig it's way out of the slump it's been in for almost a decade. A flood of cheap energy because of NAFTA may be good for American consumers, but it will continue our reliance on foreign sources of energy and spike any possible recovery in Montana's oil and gas industry. The recent announcement by oil companies of a possible $141 million investment in the Glendive area to open a new field indicates to me just how important it is that this industry remain active in our State. Under NAFTA, I could see the same companies head to Mexico with their investments—and jobs.

On top of this, the current push to restrict mining on public lands in Western States combined with the effects of NAFTA on Montana mining could be devastating. I can foresee a number of mining companies picking up their operations and moving them south of the Mexican border when existing mines are no longer productive because of changes in mining law. Montana currently employs 11,000 people directly and indirectly in the mining industry, and mining jobs are among the best paying in the State.

I'm glad President Clinton chose to address at least a couple of problems in industries important to Montana effected by NAFTA, such as sugar and wheat. But, I am not sure the wheat action will stand up—in fact, it probably will not—and I wish the effort had included all wheat, as well as barley.

NAFTA does not address problems with Canada's dumping of subsidized barley, cattle and softwoods that still exist. And we still have no effective way to really deal with these disputes. We are going to pass the NAFTA treaty, and here in Montana we will still be getting dumped on with subsidized wheat, barley, cattle and softwoods.

I believe Montana jobs will be lost and our economy hurt because we're not getting a fair deal for our farmers, ranchers, miners and timber workers.

The cost of implementing NAFTA has been estimated at around $20 billion. We can hear all kinds of figures, but that is around about the figure. But that was before my President started doing all this dickering to get the bill through the House of Representatives.

You can bet that several billion more was spent last night—your tax money, my tax money—just to get those votes to get it through the House of Representatives. We know one thing, that we are going to have new organizations, new faceless bureaucracies.

They are talking about paying for a little of the cost by putting a new tax on tourists coming into our country. This sure will not help boost tourism in a place where tourism dollars are precious, like Montana.

The agreement will not slow illegal immigrants into the United States. Even as far north as Montana—and it does not get much further north in this country—we're getting pinched by the illegal immigrant problem. Just ask some of the folks in Libby, where the Forest Service is hiring people to plant trees. Lincoln County, MT, with one of the State's highest unemployment rates, is getting hit by illegal immigrants being hired for jobs local residents could fill.

The NAFTA transfers some controls on trade decisions in our country to more nameless, faceless bureaucrats. It is my understanding some 24 new bureaucracies will be created. I know of three big ones already. They are very expensive. Maybe four: A new Export-Import Bank, and that will be funded by this Government to the tune of $1.5 billion. That is our commitment to it—a year.

We will see how these commissions operate and see if they are accountable to either country, both Mexico or the United States. We have seen how poorly they operate with the Canadian Free-Trade Agreement. Let me tell you, that has not worked all that well in my State of Montana.

It is my belief that Montana's concern and focus on trade still should be the Pacific rim. Our efforts to lower tariffs in places like Japan, Taiwan, and Korea should be strengthened. These are the countries that hold great potential for Montana products like beef, wheat, coal, minerals, and wood products.

There will be people in other parts of America who will find that NAFTA was a good deal, but when you implement it, and with the side bar deals and everything else, it does not measure up to the expectations of this agreement, I just do not think very many of those people will be in Montana. I am afraid we are in one of the places in America where NAFTA was a bad deal.

And the Montanans who work for a living know it. That is why I am voting against NAFTA.

I ask unanimous consent to print in the RECORD an article published today in the Great Falls Tribune written by a Canadian reporter titled "Montana is an Attractive Market for our Grain."

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

[From the Great Falls (MT) Tribune, Nov. 17, 1993]

MONTANA IS AN ATTRACTIVE MARKET FOR OUR GRAIN

Canadian Agriculture Minister Ralph Goodale says Ottawa has nothing to fear from any investigation of alleged unfair trading practices affecting grain exports to the U.S.

Goodale this week described exports as "quality product that is fairly traded."

"Do we have a justifiable position? I have always maintained the Canadian position is very strong," Goodale said following a meeting of the federal cabinet in Ottawa.

Goodale refused comment on reports U.S. Agriculture Secretary Mike Espy is preparing to probe allegations of unfair subsidies and Canadian grain dumping into U.S. markets, but noted: "We believe we're ready and able to demonstrate our position."

Goodale expressed puzzlement over Montana producers' allegations of grain blending involving Canadian imports. "That is a novel point," he said.

The value of Canadian wheat exports to the U.S. has more than quadrupled, to $84.9 million a year, since the 1989 ratification of the U.S.-Canada Free Trade Agreement that removed grain export limits.

Canadian wheat exports, including durum, totalled 1,003,000 metric tons in 1991–1992, compared to 359,000 tons shipped to the U.S. in 1989.

But trade documents indicate exports of wheat, barley and other grains specifically to Montana have grown more significantly—from 1,592 tons to more than 42,000 tons in the 1989–92 period.

The value of grain exports from Alberta, alone, increased from less than $159,000 (Cdn.) to more than $2 million in the same four-year period, according to documents obtained from the Alberta Grain Commission.

Alberta exports last year accounted for 28 percent of the Canadian wheat, and 50 percent of the Canadian barley, sold in Montana.

Walter Paszkowski, Alberta's agriculture minister, defended trading practices as fair. And he denounced the prospect of a formal U.S. complaint over Canadian grain exports.

"We are not dumping. This issue has gone to a free trade tribunal on two previous occasions, and the allegation has never been upheld," Paszkowski said.

"One of the problems we have with the Canada-U.S. free trade deal is the fact you don't have to come up with any new evidence when it comes to launching an old complaint. You just keep reappealing."

Brian Downey, chairman of the Alberta Grain Commission, attributed the rise in exports to Montana on the impact of U.S. Export Enhancement Program (EEP) bonuses on domestic markets.

"That program tends to support domestic prices," Downey said, "There is no evidence of dumping—Montana is just an attractive market."

Lorne Hehn, chief commissioner of the Canadian Wheat Board, also cited the effect of EEP bonuses on creating "artificially high prices that have tempted Canadian exporters.

"We are selling into U.S. markets at what the mills are offering." Hehn said. "I don't call that dumping.

"But I can understand how Montana producers feel when grain is congesting their

elevators and a local producer can't haul. Our farmers would view it in the same way if the situation was reversed," Hehn added.

Meanwhile, federal officials also dismissed claims of unfair subsidies for Canadian grain growers. The Department of Agriculture cited finding contained in an ongoing international farm subsidy review by the Organization for Economic Co-Operation and Development (OECD) that suggested Canadian and American wheat growers benefit from nearly identical levels of government support.

Subsidies for Canadian wheat growers in 1992 totalled the equivalent of $1.22 (U.S.) per bushel, compared to $1.28 for American producers, according to the OECD study.

Government support for European wheat growers was estimated at $3.39 a bushel.

The OECD study concluded government support for U.S. producers has paralleled or exceeded subsidies for Canadian growers in eight of the past 10 years.

Mr. BURNS. Mr. President, this shows the impact and lays it out in very specific numbers of how much grain is coming in from Canada into our State of Montana. I think when the year is all over, Montana may be the largest buyer or the largest export market of our neighbors to the North.

Yes, we are going to try to do something about that. That is only 11, we need more. I think if producers sit down producer to producer, we can probably work this out. Probably if cattle producers sit down cattle producer to cattle producer, Canadian to American, we can probably work it out. When we get governments and egos in the way, then we run into problems.

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

Who yields time?

Mr. BAUCUS. I might ask the Senator from Alabama whether he is in favor or against.

Mr. HEFLIN. I am against. I thought that was well known.

Mr. BAUCUS. Mr. President, might I ask of the Senator from Alabama how much time he wishes to take?

Mr. HEFLIN. I had asked I be allotted 30 minutes altogether in speaking. Right now, I understand at 3 o'clock they are going to go to something else, so I will not have time to speak on this. I will take 5 or 10 minutes right now.

Mr. BAUCUS. Mr. President, it is my understanding it is possible this 2-hour time allocated for NAFTA might be extended. For the time being, we have only until about 3 o'clock. It is my further understanding that the opponents have 7 minutes remaining. Might I inquire of the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Might I suggest then, Mr. President, the Senator from Alabama be allocated whatever time he wishes to consume, and the time be taken from the opponents on the Democratic side.

UNANIMOUS-CONSENT AGREEMENT

Mr. PACKWOOD. Mr. President, I think we are ready to do this unanimous consent request to extend the time.

I ask unanimous consent that the debate time today on the NAFTA trade agreement be extended until the Senate resumes consideration of S. 1607, with the time used today charged against the statutory time limits and with time managed as under the previous consent agreement.

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

The Chair now recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in opposition to the North American Free-Trade Agreement. I want to begin my remarks by talking about shoes and pajamas. I use the word "pajamas" to represent all wearing apparel—shirts, gowns, slips; any type of wearing apparel that is made.

My purpose here is to show what has happened in the past. One says you have to look at history in order to be guided into the future. The shoe industry, I think, is very symbolic of relocation. Today, 87 percent of all the shoes that we sell in the United States are made in another country. This was not always the case. Most shoes were made in the United States.

A number of years ago, companies found that they could relocate to foreign countries and take advantage of cheap labor. It is my understanding that when the Brazilian economy absorbed a great portion of the shoe manufacturing market, they paid their workers $2 a day. Not $2 an hour, but $2 a day.

In Mexico today, the minimum wage is 59 cents an hour. Brazil has improved some, and it is my understanding that they are now paying their workers in the shoe industry at the rate of 94 cents an hour. There are other countries that are now in the shoe business. Included in the textile bills, when they came up, were efforts to save what was left of the shoe industry. But, unfortunately, the two textile bills were vetoed.

Today, we find that shoes are being made in other countries where they are paying their labor 50 cents an hour; in one country, 30 cents an hour.

It started out slowly, but eventually there was a domino effect in terms of companies moving out of the United States and into other countries. Now we are faced with the fact that there is virtually no shoe industry in the United States.

Some said, "Well, it will bring about consumer savings." The argument of consumer savings has also been made relative to NAFTA.

According to my information, a famous brand of shoes today costs less than $1 a pair to make. I think most people know what they have to pay for shoes. If you get a pair of shoes today for less than $50, you think you have a pretty good bargain. Some of these famous brands are well over $100 a pair.

So I think in this concept of consumer savings, somewhere between the manufacturing of the footwear and the time it is sold, someone is taking the money and using it for their own profit.

I think the concept of consumer savings that is being advocated relative to NAFTA may well result in the same situation that has taken place in the shoe industry, where people in the chain between the manufacturer and the purchaser keep a considerable amount of money.

I referred before to pajamas. Let us look at what has happened in the history of the wearing apparel business.

The wearing apparel business five or six decades ago—maybe four decades ago—was located primarily in the New England States. I do not think there is any question that we in the South, and particularly in the Southeast, made a big effort to move the wearing apparel business from the New England States to the Southeast. We adopted various bills that would provide for long-term leases, and then at the end of the leases, people could buy the plants for $1 when they were built by industrial development boards or similar entity. Industrial development bonds were issued pertaining to the building of these plants, and the companies usually bought these bonds.

As a result of this and labor savings, we saw the pajama industry—the apparel industry—move from the New England States to the Southeast. We had some of the relocation incentives like weather, lower utility costs, lower taxes, certainly lower ad valorem taxes on property and equipment, which are still very low in most of the Southern States and in my State of Alabama.

Relocation incentives were the history of the movement of the apparel business from the New England States to the South, to Alabama and elsewhere. When that happened, what happened in the New England States?

I have seen television documentaries talking about the depression that existed in those New England towns. I remember seeing one on Lowell, MA. In some of those towns, it was argued, they were going to be able to replace lost jobs with new electronic industries. But as I understand it, you can still go to many towns in the New England States where formerly the apparel business was and unemployment is at depression figures still today. I think that tells us something.

I would argue that there was also a domino effect here as well. There is a domino effect in that if you have one, two, three, or four companies moving into an area, it brings about the movement of other companies.

There is an element today that controls a lot of large businesses and corporations—pension and other funds—

that is demanding that there be a constant increase in the earnings by large corporations. This pressure will be applied, and when companies start moving to Mexico, competing companies will bring about a domino effect and they will all be moving there.

Now, let us turn to relocation incentives to move to Mexico. As I said, the minimum wage is 59 cents an hour. There are some companies who are paying more than that. However, in Mexico, there is the policy of no income tax being collected from employees at the minimum wage. If companies pay higher than the minimum wage, there is an income tax that takes place and it is triggered in. Some of the companies in the maquiladora program are paying employees extra income tax money.

Not only are there tremendous labor savings, but there are other incentives as well. What are some of these other relocation incentives to move out of Alabama or move out of Michigan or move out of any State? There are a great number of relocation incentives.

First, for all practical purposes, there is no OSHA law—occupational safety and health—in Mexico. The savings that will occur as a result are an incentive to relocate.

There is very little in the way of unemployment benefits. This will result in a savings for employers. Their workmen's compensation laws are practically nonexistent. They are tied in with their overall health program, but there are tremendous savings that can occur to a business by moving.

Another relocation incentive is Social Security. Today, employees in America contribute about 7.5 percent or maybe a little higher, and there is a matching amount from the employer. If that employer could save 7.5 percent on the payroll of all his employees, it would be a healthy relocation incentive.

There are no real costs involved in Mexico pertaining to having to install clean air facilities, or clean water facilities. All of these end up as savings and relocation incentives for the mover.

Some would say, well, they are not going to move; Mexico is a long way away. But from Lowell, MA, where the apparel industry once was, to Montgomery, AL, is 1,165 miles. From Montgomery, AL, to Juarez, Mexico, is only 20 miles further. The distance is not going to make any real difference.

These incentives are there. According to the Mexicans themselves—they have a chamber-of-commerce type of activity that makes studies and is advocating the movement there—under the maquiladora program today, each job can result in $15,000 per year in savings per job by moving to Mexico.

Every relocation incentive is there for labor-intensive industries to move to Mexico. To me, we are entering into an agreement where we are going to see, in my judgment, a substantial movement.

Some argue that companies are moving to Mexico already. The maquiladora program has been in effect about 30 years. But only since President Salinas has been in office has it grown and expanded to where it is today. The primary reason was that companies did not trust the Mexican Government until Salinas got there, and there started to be an atmosphere of protection. There was a fear up until Salinas came of the nationalization of industries. There were fears pertaining to many things, such as patent protection.

Think about what happens when Salinas' office comes up for election again. This is only a year away. And you are going to gamble on that?

He has made some progress. But still there is a substantial amount of uncertainty. The question arises: Can we, in effect, trust what is going on in Mexico?

I went down to Mexico in August. I talked to a number of attorneys. One of them told me the entire judicial system of Mexico is corrupt, and he is a proponent and supporter of NAFTA. He also told me about a large bank he had represented in New York where for 18 years he has been trying to foreclose the mortgage. But he was unable to foreclose that mortgage because of the constant delay, the "home cooking" that was taking place in the judicial system. Home cooking in a judicial system is widely known in a lot of areas. Home cooking is why, in the Federal courts, we have separate jurisdiction. Diversity and separation of jurisdiction are to prevent home cooking by allowing nonresidents to be able to move to Federal courts. But home cooking still exists in Mexico. It has improved under Salinas, but is still a major problem.

I was told first hand about this. There are three articles by Mike Royko of the Chicago Tribune, in which he speaks of what has occurred pertaining to complying with agreements. He points to the extradition treaty that the United States entered into with Mexico in 1979, in which both countries agreed to extradite those accused of 31 different felonies.

Since 1979, there has yet to be a single Mexican national extradited to the United States regardless of the heinousness of the crime—rapes, murders, drugs, or whatever it might be.

He wrote an article on October 12, where he talked about specific instances, and went into horrible details of crimes committed by Mexican nationals who moved into Mexico.

Then he was questioned by the Chicago counsel from Mexico regarding this. I quote here from Mr. Royko's article, where he says that the counsel general replied to him, saying "While it is true that Mexico has had a longstanding policy of not allowing its own nationals to be extradited, it is true that the extradition of its nationals is not illegal or unconstitutional under Mexican law."

Then he goes on to say that Mexico has had a longstanding policy of not allowing its own nationals to be extradited.

They entered into this agreement in 1979 pertaining to crime, the most serious issue we face. Of all the pressure that we have applied in the war on drugs, they have yet to extradite a Mexican national to the United States, to its courts, where the crime was committed here.

Are we going to expect Mexico to follow through on the NAFTA agreement and comply with it, particularly if the presidency is changed? The same party will be in power that has been in power since 1929. We are going to possibly have in power at that time, individuals who we do not know about, who we are gambling with, and yet we have a history dealing with extradition where they have not complied. And we are going to gamble that they will on NAFTA?

We attempted to try to get some agreements. I listened to Congressman RICHARD GEPHARDT last night in his speech about how he tried to get some labor agreements.

They claim to have organized labor in Mexico. They claim that they have unions. But information I gained when I was there was basically that it was not a union like we know in the United States. Rather, it was a situation where the people in Ramanos, Mexico said that the businesses had to turn to three labor bosses who were political cronies of the powers that be. These political cronies were who they called labor bosses. But there was no real participation by the workers. It was a political organization and a political activity.

I would like to ask at this time that these three articles by Mike Royko be made a part of the RECORD. And I would like to reserve about 15 more minutes at a later time to talk more pertaining to this matter.

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

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

[From the Chicago Tribune, Oct. 12, 1993]

MEXICO HAS LIMITS ON WHAT IT TRADES

(By Mike Royko)

If you listen to the economic experts who are in favor of the North American Free Trade Agreement, they seem to make a lot of sense.

But if you listen to the economic experts who oppose NAFTA, they seem to make a lot of sense.

That's the trouble with economic experts. You could probably find one who said both sides are wrong and he'd make a lot of sense too.

But after months of confusion, I've finally made up my mind, at least for the time being, which could be an hour or forever.

And my position has nothing to do with the arguments about the potential loss of jobs, the opening of new markets for exports, or any of the other widely debated points.

I am against NAFTA because of Serapio Zuniga Rios, 29, who is accused of being a really loathsome guy.

You've probably never heard of Serapio Zuniga Rios. I hadn't either, until a few days ago.

I was drowsily watching congressmen jabbering on C-SPAN, marveling that they get paid such handsome salaries and marvelous fringe benefits for making speeches so boring they would be barred by most Chicago taverns.

But then one of them got up and talked about Serapio Zuniga Rios.

It seems that this Rios fellow had been a migrant worker in California until about a year ago.

Then a terrible thing happened. A 5-year-old girl was kidnapped, sexually assaulted and left for dead. But she didn't die and the police say they have evidence that the crime was committed by Rios.

However, they couldn't arrest Rios because he scampered back to Mexico, his native land, before they could grab him.

Ah, but Rios was not too bright. He returned to his wife and family in Mexico and took a job driving a truck.

It wasn't that difficult tracking him down. The girl's family hired a private investigator, who slipped some money to Mexican cops and they pinpointed Rios' whereabouts.

So a request was made to have Rios arrested and extradited to this country so he could stand trial for the foul crime.

That seems like a reasonable request right? Especially between neighboring countries that have so close a relationship.

We ship things back and forth all the time. We ship thousands of tourists and hundreds of millions of tourist dollars to Mexico. We ship American industry and jobs to Mexico.

In turn, Mexico ships tons of drugs and hundreds of thousands of illegal aliens, especially to southern California, where the assault took place.

So there shouldn't be any big deal about Mexico shipping us one accused sex fiend named Rios.

Ah, it isn't that simple.

True, we have an extradition treaty with Mexico. And if citizens of the United States commit criminal acts in Mexico then run home, our government will send them to Mexico to stand trial. We have done that many times.

But despite the treaty, Mexico doesn't believe in sending Mexicans accused of crimes to this country.

Their position was explained by Bill Goold, an aide to Rep. George Brown, of California, who has been fighting to get Rios returned.

"There is a 1979 extradition treaty that says both countries are supposed to extradite those accused of 31 different felonies. There was a provision added later, for Mexico, that says either they extradite or prosecute the defendant in Mexican courts.

"But they're not doing either. Their position is that their constitution forbids extradition. But it's also a carry-over from the 'anti-gringo' legacy in Mexico. It is culturally unthinkable that any Mexican official would serve up a Mexican national to the United States. They have never extradited even one.

"We have extradited our citizens down there, handed people over to them. They've never given us anybody. The FBI in our region said they have dozens of cases involving Mexican nationals wanted for murder, aggravated assault and rape, and they can't get any help.

"But if we can't get them to cooperate with us in tracking down murderers and rapists, what confidence should American businesses have in the willingness and ability of Mexican officials to protect our interests?"

A reasonable question. You would think that if Mexico is so eager to get NAFTA approved that it has spent tens of millions of dollars lobbying our politicians, it could see its way clear to part with a few accused murderers and rapists.

So maybe the NAFTA agreement should be amended. For every job we let Mexico pluck from us, we expect one accused child rapist or murderer or other felonious type in return.

And maybe for every Mexican drug merchant the Mexican authorities arrest and convict, another job. For every shipment of dope the Mexican authorities intercept, another job.

I mean what are a few murderers, rapists, and drug merchants among friends and neighbors?

[From the Chicago Tribune, Oct. 13, 1993]

MEXICAN FELONS JUST RUN FOR THE BORDER

(By Mike Royko)

Many Southern Californians, politicians included, are being accused of lacking sensitivity and humanity because they are fed up with the stream of Mexicans who pour across the border.

Most complain about the hundreds of millions of their tax dollars that are spent on schooling, medical care and law enforcement for the illegal aliens.

But there is a lesser-known problem, which I touched on in yesterday's column.

And that is the ease with which some of the illegal aliens literally get away with murder and other crimes. The process is simple: You murder someone, then dash back across the border to Mexico, and you're home free.

That's because the Mexican government appears to believe that our extradition treaty is a one-way street. They expect the United States to send them American criminals who have committed crimes in Mexico. And we do that.

But Mexico doesn't believe in extraditing Mexicans who have committed crimes in this country.

In yesterday's column, I described the case of Seraplo Zuniga Rios, 29, who is accused of raping and almost killing a 5-year-old girl.

He ducked back to Mexico and is still at large, although Mexican authorities apparently knew where he could be found but did not grab him and ship him to California for trial.

But Rios is just one of many violent border-hoppers.

Recently a sampling of other crimes was put together by Sheriff Colis Byrd, of Riverside County. In each case, the suspected criminal went back to Mexico, safe from arrest and prosecution.

Here are thumbnail sketches of some of the crimes:

A man was robbed of $10,000. Then he was bound, gagged, set afire and burned to death. When police closed in on the suspected killer, he dashed for the border. As the report said: "Mexican authorities advised they would not extradite Mr. Marcos Garcia, as he is a Mexican national."

A woman accepted a lift home from a man she met in a bar. On the way, he raped her. When she jumped from the car to escape, the man ran her down with his car. She later died. The man headed for Mexico. California police contacted the Mexican police in the suspected killer's hometown. The Mexican police promised to question the man. The results? As the report said: "Investigators received a telephone call from a relative of the suspect. The relative said the Mexican police did contact the suspect and took him away for questioning. The suspect returned a short while later, explaining he bribed the police with 3 million pesos [$900] to let him go. The suspect fled to Mexico City."

A guy was waiting for his girlfriend outside of her home. An ex-boyfriend drove by. The ex-boyfriend was the jealous type and put five bullets into the new boyfriend. The report says: "The suspect fled to Vera Cruz, Mexico."

There was a poker game. One of the players was accused of cheating and there was a fistfight. The cheat lost. But he went home, got a gun, came back, and killed the guy who had punched him. The report says: "The suspect fled to Mexicali, Mexico."

Three men were shooting pool. They argued about the bets or some such thing. One of them left the bar angry. When the other two came out, the angry fellow was waiting and shot one of them to death. Says the report: ". . . Fled to Mexico and is believed to be in Guerraro."

The woman had borrowed $2,000. The two men came to collect. The woman said she didn't have the money and didn't know when she could pay. That made the men angry, so one of them shot her in the head. The report says: "Both are believed to have fled to Michoacan, Mexico."

Miguel is driving somewhere when he spots two men he believes recently stole something from him. Miguel is a man of action. He grabs his gun and blazes away at the car, killing both men. Report: "Believed to have fled to Juaregui, Mexico."

The list goes on and on. A man is killed because he tried to retrieve a stolen welding tool from a thief. Another is shot in a barroom brawl. A man doesn't like the way his sister is treated by her husband, so he kills the brother-in-law. Three boozers have a quarrel, and one of them is stabbed 24 times. A woman dumps her boyfriend, so he kills her. A woman chides her boyfriend for coming home drunk, so he shoots her and her sister and runs them over with his car.

And those are just some of the border-hopping criminals in only one California county.

Sheriff Byrd, sounding a bit frustrated, said in a letter to Congressman George E. Brown:

"The ability of offenders to flee to another country, * * * knowing that the crossing of a border is similar to entering a safe house, is not acceptable. * * * There should be no free zones where criminal offenders can hide from justice."

Mexican politicians and police don't agree, unless they want an American extradited. And they can get downright indignant when we want one of their criminally inclined citizens. When our narcs snatched a Mexican doctor, suspected of being involved in the murder of an American agent, Mexican politicians turned it into an international incident and insult.

But Rep. Brown is capable of indignation too. So he and several other congressmen have decided to use the timing of the NAFTA negotiations to call attention to the one-way extradition street. They argue that we can't trust Mexican politicians in a historic economic deal if we can't get them to ship us some murderers and rapists.

I don't know if that is a valid argument. But it might be effective. Most Americans aren't economists. But they know what rape and murder are. And what fairness is too.

[From the Chicago Tribune, Oct. 20, 1993]

MEXICAN OFFICIAL'S GRIPES DON'T ADD UP

(By Mike Royko)

Fairness requires that I print key parts of an indignant letter sent to my boss by the Mexican consul general in Chicago. Boy, is he mad at me.

Consul General Oliver A. Farres says my recent columns about Mexico's refusal to extradite criminals to this country "not only foster further misunderstandings between the governments and people of the United States and Mexico, but they are also based upon non-corroborated and superficial evidence.

"I was appalled, as any normal human being would be, by the criminal acts allegedly committed by Mr. Serapio Zuniga Rios, a Mexican citizen.

"But I was just as disturbed by Mr. Royko's unprofessional use of sources.

"He characterizes all Mexicans as criminals for no other reason than their nationality. Rapists and murderers are not an exclusive product of Mexico. To suggest all Mexicans are criminals and that the authorities are responsible for all of their criminal acts is outrageous."

I agree. It would be outrageous for me or anyone else to characterize all Mexicans as criminals.

But I don't understand what Farres is huffing and puffing about, since I didn't characterize "all Mexicans as criminals." I wrote about Mr. Rios, accused of raping a child, and other specific fugitives.

And I don't understand what he means by "Mr. Royko's unprofessional use of sources."

I wrote two columns about Mexican immigrants—legal and illegal—who commit crimes in this country, then go back to Mexico and safety.

They're safe because Mexico won't ship Mexicans to this country to stand trial.

My sources included two congressmen, who are furious about Mexico's sheltering criminals, and frustrated law enforcement officials.

True, I didn't interview the accused criminals, since they are hiding in Mexico. But if Farres wants to bring those creeps around to my office, I'll be glad to talk to them too.

These were not Mexican-bashing columns. Their point was that Mexico ignores its extradition treaty with the U.S.

And what does Consul General Farres have to say about that?

In what appears to be almost an afterthought, he writes:

"While it is true that Mexico has had a long-standing policy of not allowing its own nationals to be extradited, it is not true that the extradition of its nationals is illegal or unconstitutional under Mexican law, as Mr. Royko claims."

So he finally gets around to admitting that what I said was true: "Mexico has had a longstanding policy of not allowing its own nationals to be extradited * * *"

Then what are we quarreling about? I said Mexico won't extradite accused criminals. Now Farres says, yes, his country won't extradite accused criminals.

Obviously we agree. So why is he writing angry letters to my boss?

I don't know. Maybe writing such letters is how Mexican diplomats justify their existence and paycheck.

As for his squawk that it's not true that extradition is illegal or unconstitutional under Mexican law, I never said it was. A congressional aide said that might be the case. If he was wrong, it's no big deal. The point is the Mexican government has a rigid non-extradition policy.

That's why police, prosecutors and congressmen are justifiably angry that accused killers and sex criminals can hop back home to Mexico without fear of being shipped here for prosecution.

But what obviously bothers the consul general is that I suggested that before this country agrees to the North American Free Trade Agreement, which some people believe will ship American jobs to Mexico, it would be fair if Mexico agrees to ship accused fiends to this country.

He wrote: "We must consider NAFTA on its own merit and not allow unrelated facts to cloud our judgment."

My judgment isn't clouded. What I'm saying is, you want the jobs and the increased prosperity, OK; then send us the accused criminals. That seems like more than a fair deal.

The consul general has an answer to that. He says that Mexico authorities have another policy: If we provide the evidence, the accused criminals will be tried in Mexican courts for the crimes they committed in the United States.

There are several things wrong with that policy.

First: There is the bribe factor. Mexican cops and other officials are notorious for being on the take. Their justice system can't be trusted.

Second: Why should all the U.S. witnesses and police have to troop to Mexico for a trial? It's much easier to send the accused criminal here.

Third: So far, Mexico hasn't shown much enthusiasm for arresting and trying these fugitives.

So let us review this dispute:

The consul general accuses me of characterizing all Mexicans as criminals. I say he should learn to read.

The consul general says Mexico has a policy against extraditing Mexicans. Which is exactly what I said.

The consul general says this policy has nothing to do with NAFTA. I say that if the Mexican government is going to protest murderers and rapists, why should we trust them in a business deal?

The consul general says, don't worry, his country will prosecute the criminals. Sure. And Chicago aldermen can be trusted in zoning deals.

I'll end this by asking the consul general to send me a list of the criminals Mexico has prosecuted for crimes in this country.

That list shouldn't take long to compile. He can use a postcard.

Mr. BAUCUS. Mr. President, I yield to the Senator from Tennessee 10 minutes.

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

Mr. MATHEWS. Thank you, Mr. President. I appreciate the courtesy the chairman has shown by giving me an opportunity to speak this afternoon.

Unlike my colleague from Alabama, Mr. President, Tennessee views NAFTA as a beneficial program and an opportunity to participate more freely in the trade of this world.

Last evening, when the House of Representatives took its vote, the RECORD will indicate that all nine Tennessee Congressmen supported NAFTA, all nine voted in the affirmative. Three Republican Members and six Democratic Members all came to the same conclusion: that NAFTA offers an opportunity to open markets to sell Tennessee products.

This morning as I was going through my mail, one of the items that I had to answer was a multiple letter from our agricultural organizations in Tennessee. This letter was signed by 14 different persons all representing the different facets of agriculture, all in complete support of the program.

In the 10 months that I have served here in the Senate, I have seen and been a part of this Congress reaching a pivotal point in America's journey as a nation—and I mean pivotal in the strict and literal sense.

In dozens of areas—health care, Government reform, the phase down of military forces—we are turning off our old path onto a new one.

One of the brightest yet most anxious of America's new directions is the direction we could take and should take and that which the House of Representatives has already taken with approval of the North American Free-Trade Agreement.

Mr. President, I rise today because it is time to face down our fears and seize America's future. I speak for NAFTA because I have a vision for America.

That vision beholds a Nation made strong by the hard work, sharp minds and keen skills of American workers.

That America faces the world and confronts its competitors, challenges the global market, and brings the benefits of trade home to American cities and families.

I know those benefits are real, because North American trade has brought them home to Tennessee.

Canada and Mexico are Tennessee's No. 1 and No. 2 export customers.

They purchased more than $2 billion from Tennessee farms and factories last year. That is an increase of 175 percent in 5 years.

More than 20 sectors of the Tennessee economy have seen their exports to Mexico double since 1987. Those exports support 44,000 Tennessee jobs, and there is more where those came from: about three new jobs for every one lost.

There will be more jobs because NAFTA will open Mexican Government procurement and eliminate tariff and nontariff barriers to key Tennessee exports—exports like transportation equipment, paper products, industrial machinery and computers, chemical products, and fabricated metal products.

What has happened in Tennessee can happen for all America.

NAFTA will open markets for dairy items, tobacco, cattle and beef, and soybeans.

Content requirements will be a catalyst for manufacturers in all three

NAFTA nations to source more auto parts and components in North America than overseas.

Environmental side agreements will stimulate demand for pollution control equipment and services.

Consumer and household goods, mature products inside United States borders, will meet nearly 90 million new Mexican consumers.

Mexico lacks bridges and highways, telephones and viaducts and sewage treatment plants.

That is a bonanza for American cement and steel and construction equipment and telecommunications—as well as for American engineers and consultants and banks and brokerages.

To make that bonanza real, we have to do one thing: believe in America's ability to prosper from change.

Frankly, Mr. President, we have no other choice. In the world where America competes now, protectionism is a contradiction in terms.

Protectionism cannot protect anything.

French workers tried to turn back the industrial age by flinging wooden shoes into machinery. A vote against NAFTA is the same bootless folly.

Trade alliances and trade blocs are the truth and the fact of today's world. We see that convincingly in Europe and Asia.

Our President is leaving today for the APEC conference which I think has the potential of opening up markets in Asia as great as what we are talking about here, or greater than NAFTA.

Nations like Sweden and Switzerland that have defined themselves by neutrality now want to join a consolidated commercial Europe.

Countries as different as Australia and Korea and Chile have found a common identity as Pacific basin nations. When you open borders and blend cultures, you unearth mutual economic good. I understand why so many try to deny that. They fear a phlebotomy of jobs. They saw 2.6 million U.S. jobs leave America in the 1980's. They saw half of all American companies lay off workers between July of 1992 and June of 1993.

The American worker—white collar and blue collar alike—does not know whether the American economy is downsizing, rightsizing, or capsizing.

But I know what has happened in Tennessee. Foreign investment, foreign trade, and common cooperation between workers and companies made Tennessee a front-page story of economic success. Tennessee's unemployment rate just hit a 3-year low. Eighty-four percent of Tennessee's exports to Mexico are manufacturing exports.

Jobs created by those exports pay 17 percent more than the average hourly U.S. wage. And as I said: we expect NAFTA to create three jobs for every one lost.

I cannot guarantee that will be the ratio for everybody in the new world of North American trade, but I can guarantee that trashing NAFTA will not salvage one American job. Protectionism never created a job, and it never preserved one.

Expanding markets creates jobs, but only for nations that do not cower from their chances.

In the tough and competitive realm of trade, the meek do not inherit the Earth. They bite the dust.

Mr. President, outbursts against NAFTA are typical of America's reaction after great conflicts: after proving ourselves over a foreign foe, we retreat from our victory. We fold inward. We brood in suspicion and dread of foreigners. We clamor for a cloistered America. We become a nation unworthy of its victory.

The cold war was a war no less than any other, and we won it.

This time, let us not mire ourselves in pointless and self-destructive seclusion. Neither the gains nor the losses created by NAFTA will be immediate or immediately large.

An obsession about a Mexican menace is wildly misplaced. In the long run, time will adjust the losses and our gains will surpass them, as we produce more and sell more to the growing Mexican market.

But our vote on NAFTA will have an immediate effect because it is a bellwether vote. It ranks in parallel with Congress' decision to support NATO and the Marshall plan. Those votes defined the world we knew for two generations. They announced and confirmed that America would be a force to contend with on this globe.

Passing NAFTA will do the same.

Defeating NAFTA will declare that we abandon the field to nations with the courage and the capacity to define it.

The moment we decide on NAFTA is the moment we announce which mentality and whose vision will set America's course for generations ahead.

America cannot peep out at the 21st century from a bunker. We will not expand America's horizon by building a wall. Let us put false fears and flagrant rhetoric behind us and step into America's future.

Mr. President, I ask my colleagues to join me in supporting this agreement.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

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

Mr. MOYNIHAN. Mr. President, the distinguished Senator from South Carolina has come to the floor and is prepared to speak for at least 1 hour. This is a speech we have looked forward to, and I am happy to yield 1 hour to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized for 1 hour.

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman of the Finance Committee. We could wrap up this debate in a single sentence, then rest our case, by quoting the distinguished Finance Committee chairman: "How can you have free trade with a country that is not free?" Mexico does not have free elections nor a free market. That is the crux of my objection to proceeding down the NAFTA route in our relations with Mexico.

Time and again, the pro-NAFTA crowd accuses anti-NAFTA advocates of raising people's fears. Let me plead guilty. I am fearful. I am very much imbued with fear of the economic consequences of unrestricted trade with Mexico.

Likewise I plead guilty to the charge of being a protectionist. On a selective and commonsense basis, I am indeed a protectionist. And I am in sound company.

I will never forget economics 101 and the doctrine of comparative advantage advocated by David Ricardo. He said nations should look to their comparative advantage in choosing which products to export. Nation A would export what it produces most economically, nation B will trade back what it produces best, and both nations will prosper.

The fact is the British proposed exactly this kind of trade relationship to Alexander Hamilton in the earliest days of our Republic. The British proposed that they would export manufactured goods in exchange for America's raw materials and agricultural products. Hamilton replied in a booklet titled "Report on Manufactures." In a word, Hamilton said, "Bug off. We are not going to remain your economic colony. We will develop our own manufacturing base."

The first congressional act pertained to posts and bills. But the second act passed by the new U.S. Congress, on July 4, 1789, was a protectionist bill, a bill that raised tariffs of up to 50 percent on some 30 articles ranging from iron to textiles. That was America's response to the British. Not willing to remain their economic colony, we chose to build up our own economic backbone.

I can also cite the example of President Lincoln just prior to the Civil War with respect to building the intercontinental railroad. Rather than import steel for the rails, he insisted that America build its own steelmaking capacity.

Likewise in agriculture. The United States has the greatest and most productive agriculture in the history of the world. This accomplishment is in no small measure the product of protectionist policies, import quotas, restrictive agreements and so on.

President Eisenhower back in 1955 put in protective quotas for oil imports so as to develop our domestic oil production.

Every nation has used protectionist policies in order to build up their domestic industries and agriculture. Certainly, Mexico has done so, and we understand it.

So, let us get away from this exaggerated reverence for free trade as though it were something holy and sacrosanct. It isn't.

I am reminded of the oath that you and I took, pledging to preserve, protect, and defend this country and Constitution.

We are at a crossroads in our history where, to uphold that oath, we must act to protect this economy. The truth is that our national security and our foreign policy are much like a 3-legged stool.

One leg, of course, is the values we uphold as a country, and those values are very strong.

The other leg is our military power. On that score, we are the only remaining superpower.

But the third leg of our national security is the strength of our economy. And I must say that this third leg is fractured and weakened as a result of some five decades of American efforts to spread capitalism and democracy the world around. Certainly, we have succeeded. The Marshall plan worked. The wall has fallen. Europe and the Pacific rim are robustly capitalist.

But, in the wake of the cold war, we look back and see key sectors of our economy that we sacrificed down through the years in order to advance our foreign policy objectives. America's textile industry has been depleted and devastated. More than two-thirds of the clothes worn in this Chamber today are imported; 86 percent of the shoes are imported.

I recall testifying before the old International Tariff Commission back in the fifties when Tom Dewey ran me around the hearing room. We were fearful at that time that imports would soon account for 10 percent of the textiles consumed in America. That was going to be a devastating prospect. Yet now imports account for two-thirds of our market.

At the time they made a wonderful argument, which had a certain logic to it. They said, what do you expect the Third World, the emerging nations to produce? Let them make the garments. Let them make the shoes. And we will make the computers, the airplanes, the high technology.

Now, yes, I am fearful. Those former poor relations are now making the planes, the computers and the high-tech thanks to government subsidies and industrial policies. The majority of computers are now manufactured out in the Pacific rim, Japan, Taiwan, and elsewhere. Japan makes the best of automobiles at low cost.

J.D. Powers did a study of 26 automobile manufacturers the world around. No. 6 in efficiency and productivity was the Ford plant down in Mexico.

Certainly as a Governor three decades ago, I developed the techniques and training for bringing rural folks in off the farms and turning them into the most productive workers in the entire world. Today, amen, we have BMW coming to my home State, and I am proud of that. South Carolina has 100 German plants, and we have 45 Japanese plants, the blue chip corporations.

But, yes, I am fearful for the future, because the plants and industries we brought to South Carolina over the last three decades are now heading to Mexico. The United Technologies auto parts plant in Bennettsville, SC, has closed, with its 420 jobs going to Mexico; Pratt & Reed, maker of Baldwin pianos in Liberty, SC, 450 jobs, gone to Mexico; Cummins Gear from Stutgartt, leaving Charleston now for Mexico. Rotron, the Japanese high-tech firm with a plant in Orangeburg, SC, has closed and moved its 260 jobs to Mexico. South Carolina textile jobs have also been lost to Mexico.

I am proud of my State's textile industry. I don't accept the cavalier attitude of those who say that textile jobs are on their way to Mexico anyway, with or without NAFTA. South Carolina has 40,000 garment jobs. These jobs are very important to an underemployed family, with the husband working on a farm and his wife working in the textile plant. Together they hope to save enough money to send their kid to Clemson.

The pro-NAFTA crowd dismisses those 40,000 jobs, saying we don't need them because we are repositioning for high technology. Nonsense. We are repositioning for bankruptcy. The high technology replacement jobs have already come and gone. They, too, are going to Mexico from South Carolina.

Somehow, some way, we must grasp that the economic leg of our national security is directly threatened. We must protect it or see it further crippled. And do not dismiss me with the label protectionist. I am proud of my efforts to protect the textile industry. But my protectionism is selective and based on common sense. I proudly voted for the free trade agreement with Canada because our two countries have a comparable standard of living, comparable economies and comparable political freedoms.

In contrast, down in Mexico you cannot belong to a free union movement. The unions are all controlled by the government. Mexico has no free press, and I speak here as a witness with first-hand experience.

Just 3 weeks ago we had a hearing of the Commerce, Science, and Transportation Committee. We hooked up via satellite with NAFTA critics in Mexico. After we got about 30 minutes into the hearing, the powers that be in Mexico obviously did not like the testimony because they pulled the plug on our satellite transmission.

The United States has a bad habit of latching onto Latin American strongmen. We threw in our lot with Samoza in Nicaragua, with disastrous consequences. Now we are touting Salinas as a democrat and reformer. Well, let me tell you about Salinas not in the words of Senator HOLLINGS but in the words of the Economist:

> The ugly truth is that Mr. Salinas and his band of bright technocrats, admired though they are by the great and good of the international conference circuit, wield power courtesy of PRI fixers and worse in the countryside.

Let me quote also from Business Week:

> In their drive to modernize Mexico, Salinas and his planners command nearly every variable of the economy to smother inflation and preserve Mexico's huge labor cost gap with the United States and other producers. Salinas fixes salaries through a complex business-labor-management agreement known as El Pacto. He anoints and picks out labor union bosses and State governments alike. In short Salinas and his number crunchers run a command economy much closer to the Asian model than any country in the West.

Fearful? Yes, indeed, I am fearful of NAFTA.

If I were your lawyer and my client asked me about NAFTA, "Lawyer HOLLINGS, what do you think?" I would say, "Wait a minute. The terms of this contract might be very good indeed, but let us look at the track record of the party you are dealing with."

Performance is better than promise. Look at Mexico's dismal performance in suppressing a free press, free elections, free union movements, free markets. "Oh, heavens, don't sign the contract."

I advocate an alternative approach to Mexico based on the Europeans' experience with their Common Market. I have introduced a bill to create a Common Market for the Americas, the premise of which is that to get economic reform, you first must achieve social and political reform.

We have tried the purely economic approach, to no avail. We tried it with President Franklin Roosevelt in the good neighbor policy. We tried it with Eisenhower and Operation Pan America. We tried it, of course, with President John F. Kennedy in the Alliance for Progress. We tried it with President Lyndon Johnson with the maquiladora program. We have tried it with President Reagan with the Caribbean Basin Initiative. In each case, the hope was to generate economic development that would build up a middle class, which in turn would develop democratic institutions. It has not worked. The time has come to place democratic and social reform at the front end of the development process.

We know that this approach can work. We have the example of Chile. We brought pressure for democratic reform. This, together with movement

toward a free economy, produced tremendous results. Chile is looking forward to another election on December 11. I would be proud to enroll them as a charter member in the Common Market for the Americas this afternoon.

But, today, we are talking about Mexico and fear.

The human rights report of our own Department of State documents that 28 journalists have been killed since Salinas took office in 1988. In one case a journalist was murdered who had been pledged protection by Salinas.

Mexico does not have a free press. Nor does it have a free electoral process. As Morton Kondracke reported in Roll Call, the true victor in the Mexican election of 1988 was the opposition candidate Cardenas. But Salinas and the PRI brazenly stole the election from him. In the same manner, Salinas will hand pick his successor next year. The PRI will maintain its corrupt grip on power. The repression will continue. The torture will continue. The killings will continue. The market will continue to be controlled. Wages will be rigidly controlled.

It is just amazing to hear pro-NAFTA advocates saying it will create jobs. Haven't they seen the advertisements urging United States firms to take advantage of $1 per hour labor in Mexico. The advertisements crow, "Yes, we can in the Yucatan. Yes, we can in the Yucatan. We can save you up to $15,000 per worker as compared to what your labor costs are in the United States."

It is obvious what the Mexican Government is prepared to do in order to promote economic development. They will hold wages artificially low and not enforce their environmental standards. But the fruits of this development will not be shared with the ordinary Mexican worker.

So the United States, after devoting five decades to defeating communism and building democracy, at a time when we should insist on a tried and true Common Market arrangement with Mexico, instead we have this narrow NAFTA agreement which locks in the corrupt status quo in Mexico. It is a shame. And it comes at a most difficult time in our own history.

Mr. President, we have 10 million Americans out this afternoon looking for work. When I read the newspaper endorsements of NAFTA, I am impressed by the fact that editorialists are not going to lose their jobs. The lobbyists, the consultants, the fixers, the Fortune 500 executives, they are not going to lose their jobs. As Representative Dave Bonior said, the Fortune 500 owners are safe, but the unfortunate 500,000 are going to lose their jobs. From the Fortune 500, 250,000 jobs were lost in the first 6 months of this year. Oh, it is nice to call this by the euphemism "downsizing." But the truth is those workers were fired. And the workers that remained are feeling downward pressure on their wages. Every day, another thousand are being let go.

The pro-NAFTA people talk dismissively of fear as though it is some kind of psychological or emotional problem. It is indeed emotional. It is real, I can tell you that. This Senator has really been in a funk witnessing the fix being put in over on the House side, because we knew on the merits we had NAFTA whipped.

Let me congratulate the NAFTA opposition in the House of Representatives. Let me congratulate DAVE BONIOR in particular. He fought NAFTA on the merits. He did not have anything to give away. He did not have any bridges to offer, any peanut butter restrictions, any special deals on citrus, sugar, and so on.

The White House was wheeling and dealing. They would give you anything. But without anything to give away, relying strictly on the common sense of the American people and the merits of their case, they came close to defeating NAFTA. They held the line because they knew NAFTA was not in the interest of the United States.

So, yes, there is fear. We Senators love to go to graduations and tell the college graduates that the great future awaits them. But when they walk out the door they find there isn't any future for them. There are few good jobs for the next generation and the next leadership to come along.

We have a President who said he was going to protect and build the middle class. But last night he acted to harm the middle class. As James Carville said, "It's the economy, stupid." But last night, we heard from the pro-NAFTA people, "It's foreign policy, stupid."

That is what is happening to us here in the Senate, too. They are sure they have a fixed jury over here on the Senate side. So do not worry about making deals here. Because it is easier to fix this crowd. The Senate has more candidates for President than anywhere else, and all those would-be candidates for President fall all over themselves identifying with the god of free trade.

In describing the United States and the potential market in Mexico, bear in mind that our neighbor has a market only the size of Los Angeles. Their consumer market is tiny compared to ours.

But their population is exploding, with 1 million teenagers entering the work force each year. Edward Luttwak says the true number is 2 million new workers a year. We know the average age in Mexico is 15 years of age. But these people are by and large impoverished. They do not have sufficient income to be major consumers of U.S. goods.

Incidentally, the official Mexican labor statistics list 12-year-olds among their unemployed. Mexico's unemployment statistics expressly include children 12 years or older who didn't have a job the week before the survey and were looking for employment. Child labor is a given.

I ask unanimous consent to reprint in the RECORD a story from the Wall Street Journal about one child laborer, Vicente Guerrero, who quit school to work in a footwear plant.

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

[From the Wall Street Journal, Apr. 8, 1991]

WORKING CHILDREN: UNDERAGE LABORERS FILL MEXICAN FACTORIES, STIR U.S. TRADE DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Guerrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente, who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the sixth grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S.-Mexico free trade agreement. It is being seized upon, for example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee Chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hang-up: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate

the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all too easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clotheslines crisscrossing the hut.

School was the one place Vicente had no problem setting himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects, Vicente finished first among 105 sixth-graders in a general-knowledge exam.

Vicente's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said, "it seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Mike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about $34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his schoolbooks under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Mike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked her. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage; do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only halfway. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital, was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure to toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Mike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but *el patron* says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

"The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states . . . " She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses. The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge caseloads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's of a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Mike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

Mr. HOLLINGS. Little Vicente asks his teacher, "How much do you make, teacher, a month; 350,000 pesos?" Little Vicente, the 12-year-old said, "I make 360,000." So he was already ahead of the teacher.

Fifty percent of the maquiladora workers do not have plumbing. One-third do not have running water. One-fourth of them, 25 percent, do not have electricity. All of these Fortune 500 lobbyists who have been running all over the Halls of Congress, I wish they would go down there and live in the maquiladora squalor.

In the 28 years since Lyndon Johnson began the maquiladora program, some 500,000 jobs have been created in Mexico. U.S. firms have built beautiful plants along the border, plants with green lawns and crisp flags flying. But all around the plants are miserable living conditions, with no paved streets, no plumbing, no running water, no toilet facilities, and very little electricity. Several of the places I visited recently in Tijuana are hovels made from five garage doors put together to make a home. In one such hovel, the family had a little car battery on top of the TV.

I asked, "Why?"

They say, "Well, if we turn on the TV and the light at the same time the light goes out. So, in order to see my TV and still have a light on at night I have to put a car battery in here."

So this is the kind of pathetic living conditions that have been created by the Fortune 500 in the maquiladoras.

As executives at Cummins Gear told me when they left Charleston for Mexico, they said they did not want to go to Mexico but their competition was already there and they had no choice but to follow suit. With NAFTA, more and more companies will be forced to depart for Mexico, even those that would otherwise prefer to stay in the United States.

Yes, let me plead guilty to being fearful because we are going to lose jobs. You can get into the statistical game of jobs won and lost under NAFTA. The studies showing job gains in the United States always assume constant growth, which is unrealistic. Consider the obvious. I do not know of any Mexican capitalist who is looking to build a plant in South Carolina. I know a lot of South Carolina industries that have gone down to Mexico. The jobs are heading south, not north.

The delegation of South Carolina understands this, despite all the pro-NAFTA newspaper editorializing. Of the eight members of the South Carolina delegation, seven of the eight are voting against NAFTA.

Pro-NAFTA advocates have pelted us with deceptions with respect to jobs, with respect to growth, with respect to fear. We have heard the slogans: "We chose to compete rather than retreat." "We have the most productive industrial worker in the world here in the United States."

We agree. We know that.

What is not competing is the U.S. Government. We know our workers can compete. Milliken & Co. in South Carolina won the Baldrige Award for excellence 3 years ago. Our textile industry has won a slew of similar awards. We know about productivity.

GE came to Florence, SC, where they make MRI's. They send over 55 percent of what their Florence production was to Tokyo. They have taken the market away from Toshiba. So do not tell me about competing and industrial workers. We are beating the Japanese.

But we cannot compete on an unfair playing field. We cannot compete against prison labor in China, child labor in Mexico, controlled labor in Mexico.

Another deception was with respect to immigration.

We have the testimony of none other than Doris Meissner, the Administrator of the Immigration and Naturalization Service—INS. She attested earlier in the year—and they jumped all over her—but she repeated it on the House side more recently, that, as a result of NAFTA, Mexican immigration is going to continue to increase.

Let me talk about the suppression of labor unions, because I saw it with my own eyes down in Tijuana.

There was a plant down there that had moved from Santa Ana, CA. It makes plastic coat hangers. In that plant, if you miss 1 day you are docked 3 days. So in January, with the heavy rains they got docked 4 days and they did not like that. Then another worker got his eye put out. He was not provided with any protective glasses. He lost his eye.

Then around late spring, a favorite supervisor, a woman expecting a child, became ill. She went to the boss and said, "Look, I have to rest."

He said, "Oh, no. You continue to work."

And she had a miscarriage and lost her child. Well, that was too much. Men and women, workers together all said, "We are going to get a union."

Do you know what, they discovered that their plant already had a union, the Government-controlled union. The workers did not know anything about it—but management did. They had had the union for 3 years. They had never seen the union contact, never heard of him, never knew about it.

Then they found out they were violating the law by trying to organize a new union in a shop that already had a union, albeit a government-controlled union, so they all got fired.

Those are the labor conditions. I told you about the hovels and squalor that they have down there. The average stay of a Mexican worker in the maquiladora plants is only 18 months. They learn a basic skill and don't want to stay there earning 80 cents an hour or $1.50 an hour when you can go up the highway to Los Angeles and get $7.50 an hour, plus education, safety protection, unemployment compensation and so on. This is exactly why NAFTA will spur a steady stream of Mexican immigration to the United States.

Meanwhile, this Congress makes U.S.-based industries less competitive. We say they must have strict environmental controls, Social Security, health care, a safe working place and safe machinery, parental leave, plant-closing notice, and on and on and on. These things all go into the cost of production. You do not have that in Mexico.

So that is why the Mexicans take our plants away by promising the Fortune 500, "Yes, you can in Yucatan." Heavens above, you can save $15,000 a worker. That is why the Mexican worker continues to emigrate to the United States. With 2 million coming into the work force each year, the jobs just aren't there. They would need at least 6 percent real growth for 20 years to keep up with this labor demand.

Then look at what will happen in agriculture under NAFTA. Experts project that America's super-productive agribusiness will drive out of business a million small unproductive farms down in Mexico. This will add millions more to the ranks of Mexicans heading northward. So instead of solving the immigration problem, NAFTA would compound the immigration problem.

I spoke to the distinguished ambassador for trade, the U.S. Trade Representative, the Honorable Mickey Kantor. I have the greatest respect for him individually. He has been my friend a long time. But I said: "Ambassador Kantor, the administration claims on TV that the Japanese and the Europeans are against NAFTA because they fear they will be on the outside looking in. False. Under NAFTA, the Japanese and the Europeans are going to be on the inside—in Mexico—shipping in, to the United States market."

Yesterday evening, the European Community sent congratulations to the House of Representatives on the passing of NAFTA. The European Community is gung ho for NAFTA. Why? Because they plan to transform Mexico into a duty-free platform from which they will export into the richest market in the world. Heavens above. The Europeans are wild about NAFTA.

I said to Ambassador Kantor, "Here is the headline and story, 'Bank of Tokyo Bullish on NAFTA'." I pointed out how Nissan is investing a billion bucks in Mexico, anticipatory not of the Mexican consumer market—Mexicans do not have enough money to buy a significant number of cars down there—but to try to export to the United States market. I pointed out that Volkswagen, too, is putting in a $1 billion expansion in Mexico, anticipating a flood of exports duty-free into the American market.

Finally, in addition to building the biggest yarn plant in all of Mexico, the People's Republic of China in September purchased 100,000 acres to develop an industrial park. China, too, is looking to use Mexico as a duty-free export platform into the United States.

So what NAFTA creates is not just a swooshing sound of jobs leaving; it is also a swooshing sound of investment pouring into Mexico. NAFTA is not a free trade agreement so much as it is the investment protection act. In the past, the Japanese and the Europeans have rebuffed Mexican invitations to invest. They had no interest. Why? Because the Mexicans have a reputation for being undependable. They seize the banks. The Japanese and Europeans said, "You get NAFTA, you get that compulsory arbitration so we know we can get our money back out, you get that NAFTA with the United States, and, uh-huh, we're coming."

So let's be done with this deception that, "The Japanese and Europeans are against NAFTA because they will be on the outside looking in." Nonsense. They are going to be on the inside shipping in.

Look at chapter 11 of NAFTA, Mr. President. Chapter 11 is the investment protection act for the country of Mexico. I cannot get over this thing. Here we ought to be building a job-growth program for the United States of America. This Congress needs it badly. We do nothing to encourage the industrial worker in this country. That is why the Senator from South Carolina voted against the parental leave bill. That was an additional cost on U.S. businesses making them just that much less competitive.

I must say that the deals that were cut to pass NAFTA in the House have made a mockery of fast track. Under fast track, we have limited time for debate and we cannot offer any amendments.

But, Mr. President, in recent days the White House has effectively amended NAFTA approximately every 10 minutes. Go over there to the White House Office of Congressional Liaison. They might still have the office open where you can get an aircraft carrier, a bridge, a special deal for durum wheat, sugar, you name it.

I am telling you, it is a wonderful bizarre. In fact, they had the unmitigated gall to put a tent out there and make it appear like a bizarre on the White House grounds. This was it. They said you all ought to come over here; we have a bazaar. We'll give you whatever you need to change your vote, because we are amending the bill right and left, left and right.

But the 535 Members of Congress, who under the Constitution have the responsibility for regulating commerce, we are not allowed to amend NAFTA one iota. Article I, section 8 of the Constitution says that the Congress of the United States may regulate foreign commerce, not the President of the United States. Heavens above, we should not be restricted by a procedure whereby we cannot even put in an amendment. You would not recognize the new NAFTA with all the amendments and deals that have been cut in recent days. You cannot recognize the bill. If you asked them to integrate these deals in a finished document and send it over here, they could not get it over here before Thanksgiving. Just type up all the promises.

I hope the White House will do that. I hope they will come and show me, as I asked Ambassador Kantor, show me where the Japanese and the Europeans are opposed to NAFTA.

They have not one iota of evidence about that, and they know it. But they keep coming up with these different deceptions and misrepresentations, and they mock us for being fearful. That is not a misrepresentation, because it is a studied and legitimate fear. They demean the labor movement.

I recall that the United Auto Workers, over the history of 50 years, from Walter Reuther forward, has been on the side of every free trade agreement.

Why is it that the UAW opposes this particular free trade agreement? Because they realize that 71,000 jobs from General Motors, the largest employer, have disappeared, and that GM does not plan any new plants in the United States. Chrysler is not planning any new plants here. Ford is not planning any new plants here in the United States. But Chrysler is going to make its Neon in Mexico and Ford is going to make its truck in Mexico, and they pat you on the back and say, "Look, exports create jobs."

As the chairman of your Commerce Committee, I can tell you here and now that the CAFE standards are going to be compromised by NAFTA, as will safety standards. We had the hearing on it yesterday. The safety standards on trucks and the operation of vehicles are going to be compromised.

Do not give me the argument that United States firms are going to Mexico with or without NAFTA. NAFTA will be the catalyst for an exodus. United States, European and Asian firms are waiting on the Investment Protection Act known as NAFTA so that they can get the protection they now lack. Just at the time when we ought to be building up our economy, Mr. President, we really are going to be tearing it down and tearing down the middle class.

I put in a bill, after listening to the witnesses and watching the European system grow and prosper, a bill to create the Common Market for the Americas. The Europeans tried EFTA, the European Free Trade Agreement, and it did not work. As Lester Thurow of MIT says, free trade agreements never work, but common markets do. Thurow argues that you must first build up social and political reforms to get economic stability, and this is what they did in southern Europe. They provided a development fund to boost the economies of Greece, Portugal and Spain, and they demanded democratic reforms. They encouraged the institutions of a free society and free market so they could have, as we say in law, a meeting of the minds.

Under the law, a child cannot make a contract. I can tell you now Mexico cannot make a free trade agreement. They have no free elections. They have no free market. They have no free judiciary. They have no free labor. They have no free press.

And who is going to suffer? Not just the United States of America but the people of Mexico. Cardenas, from whom the presidential election was stolen back in 1988, favors the common market approach to build his country. He is a Mexican patriot and he has been berated because he dared to question NAFTA.

But the truth is I talked to the city councilman in Tijuana, and he said he was opposed to NAFTA. I talked to the workers. I said, "Aren't you all going to get these new jobs?" And they talked about how they were not getting anything out of new jobs, just a chance to get enough money to run up the highway to California and the United States to do better.

So NAFTA is really going to plant the seeds of violence down there, and discord, because the rich are going to get richer. Salinas has created 22 billionaires in the last 5 years. He has not privatized. He just divvied up the public enterprises among his friends. Salinas raised $750 million in political fundraising. That is what you are dealing with. Yet fewer that 10 percent of Mexicans have any significant purchasing power. That is equivalent to the population of Los Angeles. So don't expect an export boom to Mexico.

NAFTA will benefit Mexico because it is like clearing the decks and saying sooey pig, every greedy violator of the environment and exploiter of labor, you all come on down because, yes, we can in the Yucatan.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, might I ask the Senator from California how much time she would like to have?

Mrs. BOXER. I would appreciate having 20 minutes.

Mr. BAUCUS. Mr. President, I yield 20 minutes to be taken off the time of the opponents.

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

The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

Before the Senator from South Carolina leaves the floor to attend to other business, I wanted to thank the Senator from South Carolina for his commonsense comments, his speech, and for his deep understanding of economics.

To me, it is always refreshing when the Senator from South Carolina speaks to us, because he speaks in plain English, having been an economics major myself many years ago. It took me a while to get out of that. And listening to the Senator, as I have since I came here, it is just a great pleasure. I am very proud to stand with him on this issue, even though we may not be on the same side. I am very proud to be with him on the Common Market for the Americas, which I think is the right way to proceed. We are not saying no. We are saying there is a better way.

Mr. HOLLINGS. Exactly. I thank the distinguished Senator from California.

Mrs. BOXER. Mr. President, I stand today on the Senate floor, having served 10 years in Congress, and having voted against every trade barrier and for free and fair trade, for reciprocal trade agreements which say America

will treat our trading partners as they treat us. That is only right for America.

I remember on one occasion I voted against a textile bill, and labor was very angry with me. They said: Why are you doing this? They said they did not think that was the right approach.

But I am not for this NAFTA. And why? Because I care about my country, and I care about my State of California, and I care about the people of this country. I do not think NAFTA is good for our people, for California. I do not think it is good for our people in America. I care about them more than I do about some abstract theory of economics. I do not approach this job with green eyeshades on, as my friend, Senator MIKULSKI, says. I do not approach this job with an ideology stamped on my forehead that says "free trade at all costs."

I approach this job with an open mind. And when it comes to our people, I also have an open heart.

I will not turn my back on the people of California and the people of America, even for my President whom I greatly admire, whom I agree with so much on so many occasions and whom I congratulate on his tenacity and his leadership on this issue. But I cannot turn my back on real people who understand what is going on here. Our working people, whether unionized or not, are very smart. They are also very productive, Mr. President, the most productive in the world.

You know, they say to me: Senator, we do not need a Ph.D. to understand that if a company has a chance to move south of the border and pay workers 58 cents an hour minimum wage, or even $1 an hour, it is not a level playing field for us.

I think our workers deserve at the minimum a level playing field. I do not think it is a level playing field for our workers to compete with those who earn $4 a day. Is it a level playing field to compete with a country who has some of the worst environmental laws, and even though they are getting better, the worst enforcement record? I say no. And is it fair to our small businesses and medium-sized businesses who cannot afford to move to Mexico, and who live up to our tough environmental standards? Is it fair to them to have to compete with large companies who move to Mexico?

You see who is behind this NAFTA. Read some of the reports, as my friend, DAVE BONIOR, said. NAFTA is great for the Fortune 500, but it is not so great for the unfortunate 500,000.

Is NAFTA good for some of America? Yes; we know. I said Fortune 500, yes. Those who can afford to invest will do well. Those who will exploit those weak laws and low wages and decent, hardworking Mexican workers, it will be good for those investors. Let us make it clear. It will be good for those investors. And they are smiling today. Look, I do not blame them. They are smiling. But there are a lot of people in this country who are not smiling today.

You know, my dear good friends on both sides of this issue, NAFTA was the dream of President Ronald Reagan. It was so said on the House of Representatives floor last night by my friend, DAVID DREIER, Republican Congressman from California. He said, "I am so happy." He said, "The vision of Ronald Reagan is coming true."

I say to my colleagues, and to America, whatever your view of President Reagan, I do not think there is one person in America who would say that Ronald Reagan's legacy was raising the standard of living for real working families, or making a real impact on improving this environment. We know that. That is not the legacy of the Reagan Presidency. He was a President quite beloved by many, who lowered taxes on the wealthiest corporations and the wealthiest Americans. He was a President who believed that helping the wealthiest would trickle down to average working people.

I say that this NAFTA is the same principle. For it reaches out to the wealthiest among us, and says take advantage, my friends, of the low wages and the weak environmental laws of Mexico. Then it says further—here is the trickle-down part—perhaps in many years, as Mexican workers' wages rise, by the way, if that is allowed by the Mexican Government, because they set the wages, maybe then they will be able to buy our products in quantities that will impact our exports of consumer goods.

Let me repeat that. This is trickle-down trade prosperity, and we have had enough of trickle-down economics. It is not a level playing field for our workers, our small- and medium-sized businesses, and our environment. So that is what NAFTA is to me.

Mr. President, my mother taught me a very simple rule. Before you expand a relationship with a friend, be honest about what has come before. So I say, let us look at what has come before. Let us look at the maquiladora. People who have come back from there are stunned at what is happening on the border. Look at illegal immigration with our friends to the south.

I went to the border with Senator FEINSTEIN and with Attorney General Reno. I saw desperate, good, decent people waiting for the Border Patrol to turn their backs. And 2,000 every night run across the border to America. Illegal immigration is having a very rough impact on California's economy. These are good, decent, hard-working people who are desperate.

When Senator FEINSTEIN asked the President of Mexico if he would cooperate and help us with illegal immigration, the answer was no; the answer was no. We know that the head of the INS, Doris Meissner, said before the Judiciary Committee that for 20 years we are going to see increases in immigration, and in illegal immigration.

Let us look at pesticides. Have they outlawed the pesticides that we have outlawed in California? No.

Let us look at dolphin killing. Do they allow it? Yes.

Let us look at child labor laws. Do we outlaw child labor? Yes. Are they getting better? Yes. And I think a lot of credit goes to Chairman BAUCUS, who said, "I am going to try to make this the best side agreement I can in labor and environment."

Yes, we got a few things, and that is good—but it is not near enough.

Let us look at human rights. We know that Amnesty International and others have said there still is torture by local police officials. Human rights are still a problem.

Let us look at wages; 58 cents an hour, Mr. President.

So I agree things are getting better in Mexico, but what a golden opportunity this is for us to see that they get even better by joining with the Senator from South Carolina and setting up a common market for the Americas just like they did in Europe. When you lay down some markers that have to be met—markers on wage and labor standards, markers on how they are going to enforce their laws, environmental markers, human rights markers.

Use the leverage and the power of free trade to ensure that the disparity between our two countries decreases. That is a new way to lead—not this old-fashioned way. What would be more old fashioned than exploiting workers? This is a time for us to lead, to stand for something, for democracy and economic justice. Lay down the markers, and any country that wants to join the common market for the Americas meets those markers, and now we have something to be proud of, not just walking in and exploiting poor people, exploiting the fact that they will work for peanuts because they are desperate.

Let me say to the working people of America, I know that many of you feel betrayed. You have told me. I see it in your faces. You feel abandoned. You have told me that. I tell you, do not be afraid and I make a promise to you that whatever fallout I receive for standing with you and others in this Chamber who will stand with you, it does not matter to us that we are going to receive this criticism. We will not vote to put you at risk. We know that there is a better way—following the lead of the EEC, opening up those borders in an intelligent, orderly fashion, in a way that will not put downward pressure on your standard of living.

There is a whole slew of economists who have said that is what will happen. To anybody in this Chamber who says

no economist is against NAFTA, I am going to insert in the RECORD the names of a half dozen that I found that say it will put downward pressure on wages.

So I say to my working friends, whether you are in a union or not: Hold your head up high. You have a right to be concerned and even angry, and you have a right to demand that your Government put you first.

I will work with this administration to cushion the blow that you will feel, to expand opportunities for you through investments in job producing needed projects, such as high-speed trains and buses, computers in every classroom, worker retraining, and the establishment of an economic growth fund through creative mechanisms, such as the use of pension funds. I see many of my friends who agree with me on this, and we will not sit around waiting for the standard of living in Mexico to rise so that maybe, just maybe, that trickle-down theory that we knew so well would kick in and they will buy some more of our products.

I am here to make life better for Californians and Americans now—not in 30 years from now, and not for an elite few. I want to say this to my friends in the environmental community who are very discouraged by these side agreements: I will be there for you. I want to become the NAFTA environmental watchdog. I am committed to ensuring that conditions on the border not worsen, and if they do, I will blow the whistle loud and clear and I will never forget the environmental promises made. I was in the room with Ambassador Kantor when he said: "We will cleanup the border if we get this NAFTA, and we will not allow dangerous pesticides in on the fruit and vegetables or allow California proposition 65 to be overridden." Promises on the environment.

When I read the side agreements, I will tell you it took a Ph.D. to understand them. The bureaucracy is unbelievable. If you have a complaint, it is probably going to take a couple of years to be heard by the authorities—some unelected group of people. I am very worried about that. I know there are those who are for NAFTA that think this is a landmark agreement and they disagree. I will work with them to make sure that I am not right.

The administration and other pro-NAFTA advocates have claimed that "all reputable economists say that there will be job gains as a result of NAFTA." This ignores a number of studies done by reputable economists which conclude that jobs will be lost to Mexico if NAFTA is passed.

I ask unanimous consent that a list of economists opposing NAFTA be printed in the RECORD.

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

Economic Strategy Institute: Estimates that NAFTA may cost up to 220,000 jobs over the next 10 years when the investment and trade flows are taken into account.

Timony Koechlin, Prof. at Skidmore College, and Mehrene Larudee, Prof. at Univ. of Massachusetts: Conclude that NAFTA will result in the loss of as many as 490,000 U.S. jobs over the next 10 years. They conclude that American and foreign investors will build new capacity in Mexico, rather than in the United States.

Economic Policy Institute: Estimates a shift of $44 billion worth of investment from the United States to Mexico over a decade. As a consequence, during the first 10 years of the agreement, 550,000 fewer high-wage jobs would be created in the United States.

Office of Technology Assessment found that "accelerating economic linkages with Mexico could reinforce downward pressure on U.S. wages and labor standards." Job losses will principally be in lower-skilled workers, especially apparel, auto parts and T.V. assembly.

Harley Shaiken, Prof. at UC-Berkeley found that productivity in Mexican manufacturing is as much as 80% of that in the United States, putting to rest the myth about the low-skill, low-productivity labor force in Mexico.

Lester Thurow, Nobel Prize winning economist testified before the Senate Commerce Committee that two-thirds of American workers would see lower wages if NAFTA is implemented.

Mrs. BOXER. So, my colleagues, I can count. I know the votes are here for NAFTA. But I ask you all to think long and hard before you vote. We have had enough of trickle-down economics. Our families deserve more, our workers deserve more, and they can have more if we embrace fair trade, reject this NAFTA, and get a fair deal for our people.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I yield 20 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague from Montana.

Mr. President, regarding NAFTA, I voted against fast track. I started out leaning against NAFTA because no two nations next to each other or anywhere in the world have as great a disparity in the quality of life as Mexico and the United States. But as I read, I started shifting. And then one week end, I just piled up about 10 inches worth of documents and got my old manual typewriter out, and as I analyzed, I wrote a statement. It was clear; it is not a close call, in my opinion, Mr. President. It is clear that the United States will benefit.

Will Mexico benefit more? Yes. But the United States will be clearly a beneficiary from all of this.

Last year, we had a balance of trade of $5.4 billion with Mexico—one of the few countries where we have a favorable balance of trade. Our problem in trade is not with the low-wage countries; it is with the high-wage countries.

Our deficit with Japan is greater than the next seven countries combined. And of the top 10, if you eliminate the oil-producing countries of the remaining seven, five are high-wage countries, two are low-wage countries. Our trade deficit problem is not with the Mexico-type country; it is with high-wage countries.

Secretary of Labor Robert Reich—and I believe you were there, Mr. President, when he said to us, speaking to our Labor and Human Resources Committee:

> If low wages determined where the manufacturing centers will be, then Haiti and Bangladesh would be the industrial centers of the world. Obviously that is not the case.

And he pointed out one company—I believe it was from Connecticut—facing a choice: Do we go to Mexico? Do we go to the United States? Or do we go to Germany?

German wages average, believe it or not—it is hard for me to imagine, having served in the Army right after World War II—German wages today are 60 percent higher than in the United States.

Where do we go?

They decided to put their plant in Germany because the workers were prepared, regardless of NAFTA. That is one of the lessons we have to learn. If we are prepared, we are going to do well. If we are not prepared, if we are not trained, we are not going to do well. That applies to individuals; it applies to a Nation.

As Secretary of Labor Bob Reich has said, "If you are well prepared, technology is your friend; if you are not well prepared, technology is your enemy."

The myth that plants are going to massively move to Mexico is precisely that. It is a myth. Three-fourths of our investment, U.S. investment, is in the developed countries, almost all of this Canada and western Europe. We do not invest much in poor countries.

Let me give you another practical illustration from Illinois. Quaker Oats is an Illinois corporation. Gatorade is manufactured here in the United States. Mexico charges 18 percent tariff. If NAFTA passes, and I think it is clear now it will, Quaker Oats is going to keep their plant in the United States. If NAFTA is defeated, Quaker Oats says they have no choice but to have a plant in Mexico.

And there are many other such illustrations.

As to the American car manufacturers, I heard a representative from General Motors this morning on national public radio saying they anticipate that they are going to sell $1 billion more in cars to Mexico under this and that means 15,000 more jobs. Right now we have a tariff of 2.5 percent on cars coming from Mexico into the United States; they have a tariff of 20 percent on cars that we make that go into Mexico. When you drop the tariff on both sides, clearly we are going to be a beneficiary. When you drop the price of

Fords and Chevrolets 20 percent, you are going to sell more FORDS and Chevrolets. It is just that simple.

Let me add as part of this and one of the things I have heard very little of in this debate: What if we turned it down? What if the Senate did in my opinion the wrong thing and turned this down? Is Mexico going to simply sit there and whittle their thumbs and smile and do nothing? I think it is highly unlikely.

I think the likely thing, if I were a Mexican leader, if we turned it down, I think the sensible thing for them to do is to enter into an agreement with Japan. Then, instead of a 20-percent drop in the tariff on Chevrolets and Fords there is a 20-percent drop on Hondas and Toyotas. And guess who is going to sell? You do not need any great imagination to understand this.

I have taken a look at the State of Illinois particularly because I represent the State and because it is a microcosm of the Nation and there is just a whole series of industries. Caterpillar says they will add 1,200 jobs if NAFTA is approved. I could give you a whole list of things like this.

My colleague from California, Senator BOXER—and I like the vivaciousness that she has added to the Senate—mentioned that there are economists opposed to it. Overwhelmingly, the economists are in favor of this. Every living Nobel Prize-winning economist favors NAFTA.

Illinois exports to Mexico increased 384 percent between 1987 and 1992.

And then we have to ask ourselves about the long term. I think it is clear short term we are going to gain jobs. What happens long term? Long term we have to ask the very basic question: Are we better off with a richer neighbor or a poorer neighbor? I think it is clear we are better off with a richer neighbor who can buy our products.

I do not want to exaggerate this thing because I think there has been some exaggeration on both sides. I think its impact on the United States will be limited. Its impact in Mexico will be greater. Yes, there will be some U.S. investment, for example, in telephones, and other things like that. But, on balance, it will help our economy.

I think there are other considerations, too. Let me address those very briefly.

Foreign policy considerations: Mexico right now has about 90 million people, a high birth rate but a declining birth rate. Mexico will eventually have over 200 million people.

I believe we have to think about our relationship long term with Mexico, and if we ask the question: Is our relationship helped or harmed by passing this or disapproving this? I think it is clear we help our relationship not only with Mexico, but all of Latin America.

What about the environmental factors? There is a mixed record on this in terms of the environmental groups. Seven of the 10 major environmental groups have endorsed it. I read Jessica Mathews' column in the Washington Post. She is probably the most prominent environmental writer in the Nation. I thought her column last week in the Washington Post where she said as a nation lifts its standards of living it becomes more and more concerned about environment, I think that is true.

And then, finally, there is one other factor that I think we have to look at, and that is there are going to be people who are going to be hurt. We ought to be looking at that. I like what the President said last night about retraining, but that is not enough, very candidly.

America needs a jobs program. Any welfare reform short of a jobs program is not real welfare reform. That is something we have not faced up to.

I believe we ought to have something similar to the old WPA of the 1930's where we guarantee a job to people who are out of work 5 weeks or longer, 4 days a week, and on the 5th day they have to be out trying to get a job in the private sector.

I think we have to turn the liability of unemployment into a national asset and give hope to people.

We have been talking about the crime bill. I read the Los Angeles Times story by a Catholic priest who serves the Fulsom State Prison in California. He asked the class of 40 prisoners what we ought to do about crime.

Interestingly, they came up with none of the things we have been talking about in the crime bill, with one exception. They said, No. 1, get jobs for people. Give them hope. No. 2, do something about guns. They also believe no matter how long the sentence is, it is not going to make any difference in terms of crime, and some of the other things that we have talked about. It is a very fascinating story.

We do need retraining.

I also believe, I might add, Mr. President—and two of the influential members of the Finance Committee are here right now. When I talk about a real welfare program being a jobs program, I want to pay tribute to Senator Pat MOYNIHAN, who has had more insight into the problems of the underclass in our society than not only any Member of Congress but anyone in our society that I know of.

But I also believe, in addition to having a modified WPA Program, we ought to have a small fund set aside for the President. Whenever unemployment reaches above a certain level, the President could automatically then have signed contracts for highways and sewer systems and do some of the things that need to be done in our society.

The problem we have now in dealing with these problems is it takes a long time for us to act here in Congress, and then by the time we act we are already pulling out of the recession. I think if we had something where the President could act very promptly, it would be helpful.

In any event, Mr. President, I think NAFTA will help this country. It is not going to be any huge change. It will help us. It will help Mexico more. And it will improve our relationship. I am very pleased to support it.

I wish I were not offending a lot of my good friends who feel very strongly and passionately on the other side. It is easier to pander to fear than to hope, but this is an instance where I think we have to respond to hope.

Historically, whenever we have turned down and gone in the wrong direction on trade, we have hurt the economy of our country. Smoot-Hawley is the great example. But there are other examples.

I think history teaches us—I think the sheer economics of this situation teach us that we ought to go ahead and approve NAFTA.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

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

Mr. MOYNIHAN. Mr. President, I yield myself such time as I may require in opposition to the measure.

Mr. President, as you well know, earlier today, at about 11:30, the Committee on Finance, acting promptly, reported this measure to the floor. The vote was 16 in favor, 4 against. And while I do not know that the vote will be quite that on balance on the Senate floor itself, I think we are realists and we know what the outcome will be.

In any event, we have heard the President's concern that we act promptly, and we have done so. Not only did we report the bill out of the Committee on Finance this morning by an arrangement which was reached yesterday in anticipation of the House vote, it was arranged that the distinguished chairman of the Subcommittee on International Trade of the Committee on Finance, the Senator from Montana [Mr. BAUCUS], would manage the time in favor of the measure. I said that I would vote against the bill, as I voted 2½ years ago against the provision of the fast track authority under which we are operating, and that I would manage the time in opposition.

Senator PACKWOOD will do the same on the Republican side in favor.

We have had a civil debate. We are having one. There are 20 hours involved to be disposed of and I cannot doubt but that we will use the better part of that time.

In any event, the matter proceeds in an orderly and indeed an expeditious manner. And even so, I would like to take the case to expand at some length

on the views I have on the subject and which I have expressed over the last 3 years in which we have been considering the subject.

I say again I voted "nay" this morning. I will vote "nay" tomorrow when the bill comes to a final vote.

I did not come to this position easily, much less casually. I have supported every previous trade liberalizing agreement we have considered since I came to the Senate 17 years ago and, indeed, was involved with those issues for a long period prior to that. For 17 years on the Finance Committee, now as chairman of the Finance Committee, I have supported the Trade Agreements Act in 1979 to implement the Tokyo round of the GATT—that is the General Agreement on Tariffs and Trade—the Israel-United States Free-Trade Agreement; and the Canada Free-Trade Agreement.

Mr. President, I would take a moment on that point. The Canada Free-Trade Agreement was not popular in this body. I recall, after the first day of our deliberations in the Senate Finance Committee—we would have 2 days and then vote up or down—returning to my office and calling first the United States Trade Representative and then the Canadian Ambassador to tell them both that we had three votes at that time.

The next day, a motion to disapprove failed on a tie vote, 10 to 10. And it was only the sense of duty, you might say, of our beloved former colleague, Spark Matsunaga, who in the end saved the agreement. It seemed to me elementally important that two great neighboring democracies whose trade was very much involved, whose trade unions were very much involved, ought to move in this direction.

And when we see the term "international" before the title of "trade union"—the International Brotherhood of Electrical Workers, the International Ladies' Garment Workers' Union—what that refers to is the fact that since the last century, the American labor movement and the Canadian labor movement have been partners, have been in many areas in the same movement. The president of the United Steelworkers Union today is a Canadian, Lynn Williams.

This movement back and forth in the labor movement has been a characteristic, as I say, since the end of the last century. And to consummate this in a free-trade agreement seemed to me to be very much in the interest of our own workers and of our two democracies.

And it is to that point that I will speak in a moment, as we propose to move to a free-trade agreement, as the Senator from South Carolina observed in the opening of his remarks—he was citing the Senator from New York—a free-trade agreement with a country that is not free.

Not to rattle on about past legislative undertakings, but I supported with equal enthusiasm the Generalized System of Preferences, which is an effort to encourage the development of developing economies, the poor economies—the Andean Trade Preference Initiative, the Caribbean Basin Initiative.

I led the committee this summer in extending the President's authority to negotiate the Uruguay Round Agreement under the General Agreement on Tariffs and Trade, with a deadline facing us of December 15.

I think the general case for such propositions is a compelling one. I have never doubted this.

On a bit of personal history, I learned of this subject, to the degree I can say I have learned it, immediately after World War II from Harry Hawkins, who had managed the Multilateral Trade Agreement Program for Cordell Hull when he was Secretary of State under President Roosevelt.

Indeed, when the world was reeling—not just the world, but the United States was reeling from the impact of the Smoot-Hawley tariff. And not to fault the Vice President for his performance the other evening—it was magnificent brio, as they would say at the Metropolitan Opera—but invoking Smoot-Hawley in the context of this agreement, it will not do.

Mr. Smoot was chairman of the Finance Committee, and his idea of what to do to protect American farmers—and the matter got spread much wider on the Senate floor—was to increase our tariffs; increase American tariffs by a third and sometimes even more. Indeed, that is the schedule of tariffs still on the books, as we have never let a tariff bill onto the Senate floor since. But we are not increasing any tariffs here. We have virtually no tariffs on Mexican goods, as it is. A few commodities have fairly substantial tariffs. In the main, however, we have none. There is a 3-percent level or something of inconsequence—of that order.

My concern has been on a different level. I have expressed these concerns over 3 years and more of this negotiation. They have yet to be addressed and they are not addressed in this agreement. During those 3 years, the Committee on Finance has held some 15 hearings on NAFTA—5 alone this year, the year I have been chairman. We have heard forceful, I would say sometimes impassioned arguments pro and con, from Ambassador Hills under President Bush and Ambassador Kantor under President Clinton. We have heard from other administration officials, from labor and business leaders, representatives of the environmental community, the agricultural community, and a considerable range of academic authorities.

The economics of this argument have been mired in a barrage of competing statistics and claims. Yet I think the sum of the studies yields one very clear conclusion. NAFTA's impact on the U.S. economy overall will be rather limited, but it will be devastating to blue collar manufacturing workers. That has been the concern of this Senator and of others like him.

My decision to oppose came down to two critical shortcomings. One is the failure of our own Government. The other is a fundamental problem—and one speaks with care about this and I hope a measure of respect—a problem with the Government of Mexico. With respect to the first of these, the U.S. Government still does not seem prepared to address the needs of those workers who will lose their jobs as a result of this agreement.

Thirty-two years ago, when I first came to Washington with the Kennedy administration, I was Assistant Secretary of Labor, and as Assistant Secretary of Labor, it fell to me to negotiate, in the company of Hickman Price, Jr., who was an Assistant Secretary of Commerce, and W. Michael Blumenthal, then a Deputy Assistant Secretary of State, later to be Secretary of the Treasury and to hold many other eminent positions—it fell to us to negotiate the Long-Term Cotton Textile Agreement, an agreement still in effect in the form of the Multi-Fiber Agreement. This was one of the crucial conditions for obtaining the passage of the Trade Expansion Act of 1962, which President Kennedy had sent to the Congress.

There had been a shift in the regional attitudes toward expanding trade. The Middle West, which had been deeply apprehensive of imports, which led the movement that encouraged and resulted in the Smoot-Hawley tariff—the Middle West was now exporting grain around the world, and very much in favor of such a proposal as President Kennedy sent forward.

On the other hand, the South, traditionally a free trading area—it had exported commodities, as the Middle West was now doing—imported machinery and had begun to develop a textile industry. The industries of Massachusetts had moved south. They had brought the mill to the cotton, as the word had it. And President Kennedy was faced with a simple proposition: Either there would be a quantified limit to the amount of cotton textiles and apparel made of cotton that came into the country, or he could not obtain the votes here on the Senate floor. I remember Senator Pastore, his great friend and leader in this regard, counting the votes and saying we had to have the agreement.

We got that agreement. And we got it not least because the American labor movement helped us get it. The American labor movement had supported every effort to expand international trade from the time of Cordell Hull. I went to Geneva as a representative of

the Department of Labor. With me came representatives of the Amalgamated Clothing Workers and the International Ladies' Garment Workers.

Yes, they asked for some help, but nothing so voracious as their counterparts from North Carolina, if I can put it that way, the mill owners. Because in the end they thought it was in the interests of democracy in the world that trade expand with the United States. And they thought the interests of democracy in the world came first. They asked very little beyond that.

But they did have one idea and that was trade adjustment assistance. They said: It is in the nature of a trade agreement, the General Agreement on Tariffs and Trade, that if you lower some tariffs in your country in return for another country lowering some of theirs, you are going to lose some jobs in your country. On the whole, the economies will grow. Some sectors, some industries, some factories will decline and fall.

So you have made a public decision to put some men and women out of work in the interests of the larger community. It seemed only sensible that there should be some provision for those persons whom you have decided will lose their jobs.

President Kennedy had no problem with this whatever. I think the record is that the idea was first developed by the steel workers—by David MacDonald—in the 1950's. We put into place, in tandem with the Trade Expansion Act of 1962, which became the Kennedy round—we put trade adjustment into place. And it was there when, in the 1970's, with the labor movement solidly behind the Presidents who sought to increase trade, the Tokyo round came in the late 1970's. Already wages in the United States had ceased to grow. Already industries had begun to leave. The labor movement was solidly behind the Tokyo Round. I attest it could not have been enacted had the trade unions and the AFL-CIO—George Meany, Lane Kirkland, Thomas Donahue—those men stood with the President.

They had not worked for much, but something; a commitment to trade adjustment. And they had no more helped us pass the Tokyo round, then what did the next administration do? It began cutting and cutting and cutting to the vanishing point, that basic agreement—that elemental equity—that said if we trade away your job, we will help retrain you to get another one, if we trade away your job, which is what trade agreements involve in the larger interest.

Even, Mr. President, when President Bush proposed the North American Free-Trade Agreement, NAFTA, which we have here today—I would like the Senate to hear me on this because it is easily forgotten—President Bush proposed that we spend a third of a billion dollars a year for 5 years to phase in the effects of NAFTA on those workers who will lose their jobs; a third of a billion dollars a year, specifically $335 million a year. That, to a Republican administration, seemed elementally fair. This was a tradition, now eroding, but begun in 1962 by President KENNEDY.

Mr. President, can I ask, is there anyone in the Chamber who would wish to tell me the amount of Trade Adjustment Assistance that is provided to accompany this agreement with Mexico?

Mr. SARBANES. Fifty-eight million dollars.

Mr. MOYNIHAN. Fifty-eight million dollars says the distinguished Senator from Maryland. That is roughly the amount, based on how the Congressional Budget Office has estimated it.

That just will not do—in the aftermath of a tradition of the labor movement supporting opening trade for two generations.

Mr. President, I will move to a second level of concern. I said I speak with care, I hope, about the Government of Mexico. The American trade union movement has a long history of wanting to expand that relationship that went north across the Canadian border, south across the Mexican border. Our labor movement has not been antagonistic to Mexican workers. It has sought to join them.

Samuel Gompers, that great New Yorker—well, he was born, as he put it, in the east side of London, but he became a great New Yorker—he actually had a stroke on the Mexican side of the border in 1924, if I recall, where he was meeting with Mexican trade unions to work out ties between the two bodies. He asked to be carried across the Rio Grande so he could die in the United States. But the last moment in Samuel Gompers' life was spent meeting with Mexican trade unionists.

That is a history that few will know today, but the labor movement knows it. What they also know is that those trade unions they were meeting with in the early twenties, by the end of that decade had fallen under a form of state control that has no equivalent in the Western Hemisphere. You go down to Mexico City and you see murals, some of them wonderful murals—Diego Rivera, people as such, with great busts of Lenin and Trotsky and workers and hammers and sickles. Mr. Trotsky seems curiously out of place with the armies of Zapata and such like that you find there.

When Trotsky sought haven in the world after fleeing Stalin's Soviet Union, he went to Mexico. Yet, very much like the Soviet system, it was quickly corrupted, trade unions became the instruments of the party, so the trade unions of Mexico, I regret to say, became the instruments of this extraordinary institution called the Party of the Institutionalized Revolution, PRI, which brought stability to Mexico, but there is a form of stability that easily mutates into oppression and they call that peace.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. MOYNIHAN. Madam President, these are not my views which I offer on the basis of any particular knowledge. I will cite references in what is now a great achievement of the world, those regular compendia which list, country by country, the conditions of human rights in those countries—Freedom House, still located on West 40th Street in Manhattan across from the great Public Library. Wendell Willkie became its head after the 1940 election.

Their authoritative survey, "Freedom in the World 1993," says this:

> Although President Carlos Salinas de Gortari has opened the Mexican economy, Mexico remains the most authoritarian state in Latin America outside of Cuba and Peru.

Could I ask, if there is any Member of the Senate present who would like to suggest what would be our reaction to a free trade agreement, if it were on the floor, with Cuba in which we entrusted our affairs to the mercies of their courts? We assume their trade unions would have the same freedoms our trade unions would have. Well, I do not have to ask the question. It answers itself.

Human Rights Watch, in its 1993 world report, says and I quote:

> The human rights landscape in Mexico continues to be marred by cases of torture, election-related violence, including extrajudicial killings, limitations on the right of assembly of workers, peasants, and indigenous people, attacks on journalists, and impunity for those responsible for all these acts.

Amnesty International, in its annual report for 1993, noted that Mexico's National Human Rights Commission—I quote—"* * * continued to receive thousands of complaints of human rights abuses [and] issued dozens of recommendations to the relevant authorities, but few of them were fully implemented."

Finally, Madam President, our own State Department's annual Country Report on Human Rights Practices, issued in February 1993, said as follows:

> There continue to be human rights abuses in Mexico, many of which go unpunished owing to the culture of impunity that has traditionally surrounded human rights violators.

Madam President, ought we to be rushing into an agreement of this magnitude with a government which has created, in the words of our own State Department, a "culture of impunity" against those who kill, torture, maim, disperse, outlaw activities we would consider as fundamental constitutional rights, which are indeed enshrined in their own statutes? But to violate those statutes is done with impunity, in a culture of impunity.

Again, Freedom House, about the courts. Across the park here there is

that great Supreme Court building with that elemental assertion, "Equal justice under law."

What you will never get in a Mexican court is equal justice, and there will not be law either.

Here is Freedom House on the subject:

Overall, the judicial system is weak, politicized, and riddled with corruption. Relatively few corrupt officials ever spend time in jail, and if they do it is often for minor offenses that serve to cut short investigations of serious crime. In many rural areas, respect for law by official agencies is nonexistent. Lower courts and law enforcement in general are undermined by widespread bribery, as is the State bureaucracy.

Now, your heart goes out to the 90 million Mexicans who live in that arrangement, not to those Mexicans who were invited to a fundraising dinner by the President, the ticket of which was $25 million per guest. You have a world where there is enough that is outrageous in political fundraising in the United States, but $25 million per ticket? That is outside any range of reference we have. It describes a world of immensely rich and getting richer, a class that owns a government and is increasingly, almost brutally indifferent to its own people; a country, Madam President, where they shoot cardinals and say they inadvertently got in the line of fire.

Now, your heart goes out to these people, but need we validate that arrangement as we do with this accord? Because that is what it is, Madam President. We would not sign an agreement with any such country anywhere else in the world. We have raised the banner of human rights, and properly so, and the American labor movement has done it with free-trade unions. The first international organization formed after World War II was the International Confederation of Free Trade Unions, 1948, at the London County Council Hall with the AFL–CIO and the British Trade Unions Congress, the two trade union movements that had survived World War II, bringing in the French, bringing in the Italians, could not get to Spain, helping to create trade unions in Japan, opening the world.

When I say AFL–CIO, of course, I include Canada. I do not want to say there are not autonomous trade union movements in Canada. There are. But there are the International Brotherhood of Electrical Workers as members in Toronto, and vice versa. As I noted earlier, the Steelworkers' president, Madam President, is Canadian, a very able, a very distinguished president, too, Mr. Lynn Williams.

Are we going to give up that for this? Those are battle honors, Madam President. Those men and women prevailed. Now we are saying, having won that war, those were not the issues we really cared about; it was something else?

No. No. And even in the last one we pleaded, the AFL–CIO pleaded, can we not get some labor agreements into this text? And they were told no, you cannot. No, you cannot. That is all.

But it was said that there would be a side agreement. We have that side agreement, Madam President, and I say to you it is embarrassing. The agreement lists 11 basic labor principles, such as restrictions on child labor and prevention of occupational accidents, occupational safety, things like that. And we have a tripartite tribunal made up of the labor ministers—the Secretary of Labor in our case—of the three governments, and they can hear complaints and they can actually vote if they feel that one party is in violation of these 11 principles.

No, Madam President, only eight of them. If it looks like your child labor laws are not being abided by, we can have a two-thirds vote to say stop that. If you are not really industrious enough in the matter of occupational safety, pull up your socks.

But, Madam President, the United States entered the agreement, called a labor agreement, in which there were 11 basic principles, 8 of which you might say could be adjudicated and decided, but 3 of which were exempted. Madam President, three. They were the core principles of freedom of association, which is the right to have a trade union; the right of collective bargaining, which is the right to use a trade union; and the right to strike, which is the right to withhold labor in the quest for a collective bargaining agreement—the three basic principles, the principles Samuel Gompers brought to the International Labor Organization charter in Paris in 1918 when an American President, Woodrow Wilson, made him head of the commission that would draw up a great organization as part of the League of Nations for the rights of labor with business and labor and government, a tripartite arrangement—Samuel Gompers, whose stroke took place in Mexico as he was working out cooperation with Mexican unions, Mexican unions which have been dispersed or absolutely clamped down upon, corrupted and controlled.

We have a tradition here. We do not want to trivialize it. We do not want to see all those years, all those struggles, all those hopes, all those successes, I would say victories, diminished in an inadequate—and in places, painfully compromised—document.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, will the distinguished Senator from New York yield me 10 minutes? I think I can do it in 10 minutes.

Mr. MOYNIHAN. The Senator from Maryland is free to have as much time as he wishes. I see other Senators may wish to speak. So shall we say 20 minutes? Senator WELLSTONE had asked first. He indicates that the Senator from Maryland should go first; the Senator is ready.

Mr. WELLSTONE. Madam President, I would be pleased if I could at least have my 10 minutes.

Mr. MOYNIHAN. Oh, the Senator shall have it. May I suggest 20 minutes.

Mr. SARBANES. I appreciate it very much.

Mr. MOYNIHAN. Will the Senator allow me one brief moment?

Madam President, I ask unanimous consent that an article by Larry Birns and Terrence J. Brunner of the Council on Hemispheric Affairs be printed in the RECORD.

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

[From the Washington Times, Nov. 17, 1993]

LET US NOT REWARD MEXICO FOR ITS FAILURE TO REFORM

(By Larry Birns and Terrence J. Brunner)

Amidst all the speculation, oddsmaking, last-minute vote counts, pressure politics and the tidal wave of punditry being democratically offered to both sides as today's NAFTA vote is awaited, what is being overlooked is that the pact is little more than an old-fashioned trade arrangement that barely pecks at Mexico's deep and organic political, economic and social flaws.

NAFTA may not be as bad as some of its critics maintain, or as good as its proponents would have you believe, but demonstratively, it is inadequate to the mission assigned to it—the democratization of Mexico. The formulation of NAFTA offered a once-in-a-lifetime opportunity for its co-signatories to insist that corrupt institutions in Mexico's authoritarian society be reformed as a pre-condition for the pact to move ahead, but it was muffed by a too complaisant Washington and Ottawa. It is the lack of democratic compatibility, rather than economic disparities, that denies the United States and Canada a level playing field, to Mexico's overwhelming and unfair advantage.

Although poor, a society possessing a strong democratic system can embrace free-market reforms and encase them in equity. With Mexico in mind, Vice President Al Gore and other administrative figures mistakenly have presented Ireland's and Portugal's entry into the European Community as proof that a mass exodus of jobs from richer countries into poorer ones needn't occur when such an expansion occurs. But the flaw in this analogy is that those countries, at the time of their accession to the European Community, were flourishing democracies, with free trade union movements that could fairly engage in collective bargaining. Their commitment to an open society and the latitude of their democratic bona fides stand in stark contrast to authoritarian Mexico.

The facts are that even at this late date, at least eight years after major changes in the Mexican economic system were initiated, workers there lack basic labor rights and the lower middle class and the poor have yet to reap significant benefits. According to official statistics, the richest 10 percent of the country accounts for almost 40 percent of its income—with most of that in the hands of the top 1 percent and the concentration of wealth steadily intensifying. Symbolic of this, in the last several years the number of Mexican billionaires has swelled from three to seven.

A valid NAFTA containing strong social guarantees could have had a profoundly positive impact on the democratization of Mexican public life. Mr. Clinton's side agreements ostensibly were meant to remedy NAFTA's omissions, but they are weak, complex and probably unenforceable. They will not assist in the conversion of constitutionally-guaranteed rights into realities, because outside scrutiny over Mexico's collective bargaining process is explicitly exempted from purview. In the end, the Mexican worker is left with no real negotiating power to obtain the higher wages theoretically promised under NAFTA. Still, pact boosters illogically tell the U.S. and Canadian public that the agreement will alchemistically lift the Mexican worker from poverty.

NAFTA's fate profoundly will affect President Carlos Salinas' choice next year of his successor. When he lifts the cap of the destape (hooded one), who will it reveal? If NAFTA passes, it could be Luis Donaldo Colosio, his social development minister, who is a pragmatic politician who would most likely follow the Salinas line of guided democracy. If NAFTA is defeated, Mr. Salinas might very well give the nod to the current mayor of Mexico City, Manuel Camacho Solis, who seems more inclined to open government. In either eventuality, Mexico will not face a catastrophe.

If NAFTA is defeated, it will undoubtedly be looked upon with a yawn rather than a gasp—providing the makings of perhaps a week of headlines. The question of free trade among the United States, Canada and Mexico will continue on the agenda because it belongs there, with a solution to the issue meant to be a mixture of both balanced economics and politics, one that promotes real freedoms rather than their shadows.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Madam President, first, I want to commend the very distinguished Senator from New York for his very thoughtful analysis and his very cogent statement.

Madam President, earlier when the issue was before us, I voted against doing the Mexican trade negotiations under fast track whereby the President concluded the agreement and then presented it to the Congress on a take it or leave it basis.

I have supported using fast track for the GATT negotiations because I do not see how you can negotiate with 108 countries, bring an agreement, and then alter it and do a complete renegotiation. I think we would have been far better off if the Mexican agreement had not been negotiated under fast track, which would have allowed us to amend it and to correct some of its more serious deficiencies. The arguments for fast track in a many country negotiation do not apply in a bilateral or trilateral negotiation.

Madam President, I am going to vote against this agreement for the following rationale: I agree with the distinguished Senator from New York. I think this agreement is going to result in a significant loss of employment opportunities in the manufacturing sector of our economy and that it would impact on blue-collar workers in an extraordinarily negative way.

I do not quarrel with the fact that there will be some who will gain jobs because of the agreement. There is no doubt about that. People in the investment banking industry, people in the insurance industry—a lot of people who provide those kinds of services will benefit.

But I think the production workers, the people on the production lines, are going to suffer, and suffer significantly.

Why do I say that? I really want to analyze the economics of the agreement. A lot of the arguments being made have departed from the economics of the agreement. Supporters of NAFTA have argued that the whole relationship with Mexico is at stake. The argument has been made that the American Presidency is at stake. All the ultimate arguments of catastrophic consequences are being used to divert our attention away from the basic economics of the agreement itself because the basic economics are not adequate to carry the agreement.

The fact is that there is an enormous gap between Mexican and U.S. wages: Mexican wages are about 15 percent of U.S. wages. However, productivity in the Mexican export sector is 80 to 100 percent of the U.S. level. If you take the productive facilities that are in Mexico today designed for the export market —facilities with modern plant and equipment—they can produce at 80 to 100 percent of the U.S. level, and yet pay only 15 percent of the U.S. wage.

Mexican productivity and quality are very competitive in those export sectors that compete directly with U.S. jobs and workers. That needs to be understood. Why would it not be the response of a logical business person to say "I am going to shift my production facilities to Mexico or build my next facility there? I will pay 15 percent of the wage and get 80 to 100 percent of the production"?

Well, some say low wages are not that significant. But low wages are important in location decisions, especially in manufacturing when the technology itself can be exported. In other words, you can put the necessary plant and equipment in there to produce at modern levels.

In fact, back in March in the New York Times, John Pearlman, chairman of Zenith Electronics Corporation, which has 20,000 employees in Mexico, said and I quote:

When I factor in other nonlabor costs—less heat, cheaper land, and cheaper construction—there is no question that Mexico's lower labor costs are decisive.

Many supporters of this agreement say production facilities can be located in Mexico now. That is correct and in fact such facilities are being located there. But NAFTA provides two very important guarantees that are not now available and that I think will have an impact on increasing the flow of production facilities into Mexico. Actually from the Mexican point of view, the agreement is designed to attract investment. They make no bones about it. That is its purpose—to attract investment and to start building facilities and factories and manufacturing plants in Mexico. That is what they are seeking to do.

Now what are the two things that this agreement takes care of which will lead investors to put even more production facilities in Mexico?

First of all, it provides guaranteed access into the U.S. market.

Business people know that if they put their production facility in Mexico, they do not have to worry that somehow or other there will be restraints placed on the flow of their goods into the U.S. market. They are protected from the concern that this access into the American market will be impeded. They know they can put the plant in Mexico, pay 15 percent of the wage, get 80 percent of the production, and send those products into the U.S. without any impediment whatsoever.

Second, and perhaps more importantly, the agreement provides protections from the Mexican Government that are really extraordinary. The negotiators were really negotiating an investment agreement, and they have gotten tremendous protections for the investors. In fact, the administration's own statement in the NAFTA implementing legislation makes clear the added attraction NAFTA provides for U.S. investors in Mexico. And I quote:

The NAFTA gives U.S. industries in Mexico and Canada the right to repatriate profits and capital and to obtain hard currency for all payments associated with an investment, and the right to international law protection against expropriation, including the right to compensation equal to the fair market value of their investment. The NAFTA also provides a strong dispute settlement mechanism that protects investors' rights by permitting investors to resort directly to international arbitration to resolve disputes with the host government. This will enable investors to obtain binding awards of money damages for violations of the NAFTA's investment provisions, and provide for enforcement of awards under both the NAFTA and relevant treaties.

These are extraordinary protections. And the contrast between protections for the investors and the lack of protection for workers is striking and dramatic.

As we all know, the industrial relations system in Mexico depresses wages. In fact, it is a Mexican strategy for their economic development to have a low-wage approach. The government in effect holds them down artificially. The workers have no way under the NAFTA legislation to effectively offset that. So the expectation is—looking out into the future—that Mexico will be able to continue to maintain this wage gap to which I have made reference.

The Roper polling organization did a survey last year, and 40 percent of business executives surveyed said they were very likely, or somewhat likely, to shift some production to Mexico should NAFTA pass; 55 percent of executives of companies with over $1 billion in annual sales said they were very likely, or somewhat likely, to shift some production to Mexico should NAFTA pass; and 24 percent of executives said they were likely to use NAFTA as a bargaining chip in their labor negotiations here in order to keep United States wages down.

I want to now turn to that latter possibility. The possibility I have focused on thus far is the actual location of production facilities in Mexico to take advantage of the wage gap. I think that is a powerful economic dynamic, particularly when the agreement eliminates two very large concerns that people previously had, namely, would they have assured access to the U.S. market for their production? And, second, what might the Mexican Government do in terms of impacting or impinging upon their investment? This NAFTA takes care of those two problems.

But the other issue is that even if production facilities do not locate in Mexico, this possibility will be used as a lever to hold down or to cut United States wages. It also could be used as a lever to bargain with local communities over taxes and environmental issues. In other words, factory owners could say: If you do not give me some breaks here, we are taking our production south of the border. The same threat could be used to leverage local suppliers. So you would face, one, the actual reality of the facilities being located in Mexico and, two, the threat that they will be, so that concessions will be extracted from United States workers, communities, and suppliers.

There are some who say that the impact on our economy from the Mexican economy will not be too great because it is only 5 percent of the United States economy—in terms of GDP. Incidentally, that is a strong argument against the assertion that Mexico is going to be a large consumer market for our exporters, particularly when Mexican wages are held down by a concerted government strategy. Most of the figures cited for current United States exports into Mexico, which are used to support the argument that Mexico could be a highly significant consumer market, do not take into account that those exports are primarily the shipping of intermediate goods—the maquiladora program—which are assembled and shipped back to the United States, and the shipping of capital equipment to establish the factories that are going to make the consumer goods to be sent into the United States. It is estimated that only 15 percent of what we send into Mexico is in the consumer sector.

The big thing to understand about the Mexican economy is not its GDP in relation to the United States, but the fact that the Mexican work force represents 30 percent of the United States work force. There is in Mexico a large underpaid, underemployed labor force and, therefore, one important potential impact upon the United States economy must be measured by the relative size of this potential work force—the downward impact it can have on the United States wage structure—especially since Mexico is following a low-wage strategy as an essential element of its economic development.

Some have said that if we do not do NAFTA, the Japanese will do it. The Japanese themselves dismiss that prospect. What opening would Japan provide into the Japanese market? The fact of the matter is that Japan and other nations are much more likely to increase their investment in Mexico under NAFTA.

Why do I say that? Because, they see the gap between low wages and good productivity in Mexico. They will locate production facilities in Mexico, take advantage of the wage gap, get a high level of productivity, and export products into the United States. The same rationale that would lead an American company to locate production facilities in Mexico, would lead Japanese and Germans and others around the world to locate their own production facilities in Mexico. They would gain access to the U.S. market, while reaping the benefits of low wages and the relatively good productivity. The Mexicans can produce quality goods given the proper plant and equipment. They can do it, and they have been doing it.

Finally, Madam President, let me turn to just one other consideration. I want to contrast what is being done here and what was done in the European Community when it sought to bring the southern tier countries—Spain, Portugal, and Greece—into the Community. There was a significant wage gap, although it was much less than the wage gap that exists between the United States and Mexico. Their wage gap was maybe two to one, perhaps less than that. As I said, our wage gap with Mexico is 7 or 8 to 1. However, even though the EC confronted a considerably smaller problem, it established a transition period extending over a decade or two, in which tens and tens of billions of dollars were invested by the northern tier countries into the southern tier countries in order to reduce the economic disparities. Before the EC brought these additional countries into the free-trade arrangement, they sought to bring them to a higher level of development, and made huge investments in order to do that.

Second, they worked out agreements regarding the terms and conditions of employment which the poorer countries had to meet before becoming full-fledged Community members. In all of the EC countries labor has the right of association, the right of collective bargaining, and they have strong free trade unions—a very dramatic contrast with the situation in Mexico. Furthermore, the work force involved was much smaller, in percentage terms, than the Mexican work force. As I have indicated, the Mexican work force is 30 percent of the United States work force, creating the potential of a tremendous depressant on wages in the United States.

Second, the European Community had another very essential requirement: A political dimension in that only democratic countries could be members of the Community. The European Community said in order to become part of our free trade arrangement you must first have a political democracy. I am not going to go into this issue at great length because it was addressed very effectively by the distinguished senior Senator from New York [Mr. MOYNIHAN] only a few minutes ago on the floor when he discussed the human rights problems in Mexico and the real failure for there to be a working democracy in that country.

Mr. WELLSTONE. Madam President, will the Senator yield for one question?

Mr. SARBANES. Certainly.

Mr. WELLSTONE. I do not mean to interrupt the flow of the Senator's presentation. But this will be on this question of wages, labor standards, and human rights.

As I analyze this debate, I think I was more influenced by Harley Shaiken than most anyone else. The Senator from Maryland knows, given his expertise in political economy, Professor Shaiken argues it is really a myth just to think about our losing unskilled jobs and what we gain is high-skilled, export-oriented jobs.

He has closely studied the auto industries and electronics industries as two examples. His argument—and I want to get the Senator's reaction to this—is what you see in the auto industry is you see the production of auto engines by a high-productivity labor force, a highly skilled labor force, but the comparison becomes between maybe $18 or so in our country, both wages and benefits, and a little over $2 in Mexico.

The question then becomes, why that differential, because clearly the average working people in our country are willing to compete in any international economic arena? And the answer to that question, I think, is that the people in Mexico do not have the right to belong to independent labor unions and, moreover, as a number of different organizations have pointed out, including a very fine organization of lawyers in Minnesota on human rights that issued two reports this past year. In Mexico seeking redress of grievances

on labor or the environment can mean that you can be imprisoned.

Is there not there a connection between a trade agreement and our linking a trade agreement to democracy and the human rights, which is what I thought we were going to be all about in this post-cold war period? Is that not the core value of our country? Is not there a connection between that and what we stand for and the uplifting of the living standards of people in Mexico and our country as opposed to this trade agreement?

Mr. SARBANES. I would say to the Senator——

The PRESIDING OFFICER. The Senator from Maryland is advised he has spoken for 20 minutes.

Mr. MOYNIHAN. Madam President, I ask for 5 additional minutes to be available to the Senator from Maryland.

Mr. WELLSTONE. I will take 5 minutes off my time.

Mr. MOYNIHAN. No, that is not necessary.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. The Senator is absolutely right.

A good trade agreement like the European Community settlement was designed not to impose too heavy a burden on the advanced economies and at the same time to help lift up the economies of the other countries. And the Europeans had developed a program with which to do that. But in the developing countries, that program would not have worked if those countries had a structured system of industrial relations and political authoritarianism like Mexico that holds the workers in a low-wage posture.

Prof. Harley Shaiken of the University of California, Berkeley, said when he testified before the Senate Committee on Labor and Human Resources just a few weeks ago, and I quote:

> While the implications of NAFTA for United States jobs are central, understanding the possible impact of this agreement requires going beyond the conflicting predictions and looking at the underlying factors shaping manufacturing trade between the United States and Mexico.
>
> In the last decade or so a powerful new reality has emerged: Mexican export plants in industries from automobiles to electronics achieve productivity and quality comparable to the United States at one-seventh the wage levels. As a result of high productivity, Mexico's low wages translate into low unit cost in increasingly sophisticated production.
>
> Holding to an outdated vision, however, many assume that Mexican wages are low because Mexican productivity is low. In fact, in the export sector, Mexican wages are low for reasons that have little to do with productivity. Instead wages are artificially depressed by government policies and constricted labor rights, among other factors.
>
> Unless this frayed link between rising productivity and wages is repaired, then Mexico will be much more attractive as an export platform than as a consumer market. The result will not only throttle the development of Mexico's consumer market but could serve as a magnet for United States jobs and press down on United States wage levels.

That is the flaw in this NAFTA approach.

Let me close with reference again to the EC model. First of all, the EC economic approach was different in terms of how they sought to raise the level of the southern tier countries. The EC went through the important transition period I described before.

Second, the politics were different. It was premised on the proposition that only democratic countries would become part of the Community. Of course, if you have a democratic country, then the workers are in position to organize themselves and try to get a fair return for their labor. This, of course, is one of the fundamental differences with Mexico. The final thing which the European Community did was to establish a very effective worker training and retraining program.

The provisions that are being made in this country for that purpose are grossly inadequate, just absolutely grossly inadequate. What we needed was a NAFTA developed as carefully as the EC approach was developed. That would have represented true, meaningful economic progress and advancement.

This agreement has been sold with all kinds of arguments, most of them not related to any real economic analysis of the agreement and potentially what it would do.

I, like the distinguished Senator from New York, have supported trade agreements consistently in the Senate. I have sought for a more liberal international trading environment and a more open trading environment. In that regard, I think the GATT talks are far more important than NAFTA.

It is a great flaw in NAFTA that it was not developed in the same careful way that the European Community developed its expansion whereby the Community provided a fair balancing of the economic interests of all segments of the economy.

This agreement is going to impose a very heavy, disproportionate burden on production workers in this country.

Some say, why does that matter? They acknowledge we will lose in this area. They will not necessarily say this openly. But some will admit we will lose the production workers but say it will be more than compensated for because we will get all the service business—law, banking, insurance, etc.

But, Madam President, what happens eventually, as we have seen around the world, is that eventually the service businesses follow the production facilities. If the production facilities move, in time the service businesses move as well. We need to go back to the drawing board and come up with an agreement that serves the economic interest of the working people in all three countries.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Madam President, there are not more than a dozen Members of the present Senate who had the privilege of serving with the late Senator Sam J. Ervin, Jr. I mention this because Senator Ervin was my senior colleague from North Carolina for 2 years before he retired on January 3, 1974, after having served more than 20 years in this Senate. Prior to that, this great American served for a long while on the supreme court of North Carolina.

Senator Ervin and I did not belong to the same party. Yet he was my friend and my mentor, my teacher, my role model. After he left the Senate, we talked by telephone at least two or three times a week. When a constitutional question was before the Senate, I unfailingly sought Senator Ervin's advice as well as the advice of some other constitutional scholars around the country, and I adopted a number of matters that Senator Ervin had uniquely defended—or opposed—as the case may have been.

One of Senator Ervin's greatest apprehensions was the potential for harm to the American people whenever U.S. negotiators sat down with representatives of foreign countries to negotiate treaties.

I can hear him now, with that chuckle, as he would so often say that the United States "never lost a war or won a treaty." I remember how faithfully he opposed, for example, the so-called Genocide Treaty. He contended, accurately, that this was one of those treaties that sounded good, was supported by a vast number of people who had never read it, and was advocated by editors and others in the news media who had taken somebody else's word that this was the "thing to do."

Now history has proved that Sam Ervin was right about the Genocide Treaty. His critics were wrong. And after Senator Sam left this Senate, when it came to issues of our national sovereignty, I did the best I could to uphold his point of view because it was also my point of view. Finally, the Genocide Treaty was revised and it was approved. The harmful potential to America's sovereignty was eliminated and the treaty was approved by the Senate. Nothing was lost by delaying approval by the Senate and a very great deal was gained.

I mention all of this, Madam President, as a prelude to my saying that I wish I could, in good conscience, support this North American Free-Trade Agreement. I wish I could be at least a fraction as certain, as some of my best friends seem to be, that NAFTA will be as good for America as they claim it will be. But the fact is it will not be good for America.

I have nagging doubts and increasing doubts the more I read and study the fine print in this agreement. Therefore, I cannot and will not support it.

Madam President, I came to this Senate in January of 1973 vowing to do the best I could to oppose tax increases, foreign aid, and treaties that undermine U.S. sovereignty. This NAFTA agreement will increase taxes, it will increase foreign aid, and it will undermine the sovereignty of this great country.

I know that some experts who have not read the treaty will contend otherwise. But the fact remains that all three of these things will happen.

The side agreements create powerful tri-national commissions authorized to determine whether the United States is doing enough to enforce the U.S. domestic laws. Now, if we are not doing enough to satisfy the Mexicans, these commissions can retaliate by fining the United States up to $20 million or by taxing our exports.

Vice President GORE conceded in his debate with Mr. Perot that with the side agreements, the United States could, as AL GORE put it, "compel Mexico to enforce its environmental laws." And, obviously, Mexico can and undoubtedly will do the same thing to us. International bureaucrats could be armed with the authority to second-guess U.S. agencies and overrule their decisions.

Madam President, as for foreign aid, the administration has agreed to an $8 billion foreign aid plan to clean up the Mexican border, providing $2 or $3 billion of American taxpayers money in grants and loans through two brand new multinational institutions and another $2 billion through the World Bank.

Then there is the little matter of the tax increase. To pay for the loss in revenue from duties, the administration is going to raise taxes by $2.6 billion, and $1 billion of that will come from new fees on airline passengers.

I confess, Madam President, in conclusion, that I am troubled by reports that the administration has made a variety of deals to get the necessary House votes—deals on such things as sugar, wheat, tomatoes, and citrus, even airplanes. One NAFTA lobbyist put it candidly this way. He said, "We are doing this the old-fashioned way—one district, one deal at a time."

On the question of NAFTA, Madam President, I have had to agree to disagree agreeably with some of my best friends and colleagues. But, I am genuinely convinced that an acceptable agreement can be worked out. Unfortunately, this is not going to happen because the Senate is likely to approve NAFTA by an even wider margin than the House of Representatives did last night.

I thank the Chair and I yield the floor.

Mr. BRADLEY. Mr. President, I will withhold the bulk of my comments on the North American Free-Trade Agreement until tomorrow, when we have a more full-blown debate, I expect.

But I would like simply to introduce into the RECORD a few thoughts that address some of the points that have been made by the opponents of the North American Free-Trade Agreement, particularly when it comes to the issue of wages and productivity, because the opponents are arguing essentially that the great sucking sound is going to be because of low wages in Mexico. The number that is frequently thrown around ranges from 7 to 1 to 10 to 1.

I think it is important for us to focus on what some of the real facts are as it relates to the issue of wages and living standards between Mexico and the United States in order to ascertain whether this differential is as great as the opponents assert.

I think a frequent source of the confusion—and here I am simply sharing with the Senate, I think, a very thoughtful analysis of this offered by Mr. William Worm, where he points out that a frequent source of confusion is the dollar wage rate versus real income rates.

The 10-to-1 ratio that you hear Ross Perot throwing around often is most commonly cited, but is derived not from pay scales but from per capita domestic product, which in the late 1980's averaged around $2,000 in Mexico and around $20,000 in the United States.

More recently, that domestic product is about $3,000 in Mexico and $22,000 in the United States, thereby getting the 7-to-1 ratio, which I think the distinguished Senator from Maryland referred to in his remarks.

But that 7-to-1 ratio overstates the true differential. Any per capita calculation drags down Mexico because half the population of Mexico is under 18—in other words, they are not earning much money—and relatively few women are wage earners in Mexico.

In the United States, half the population is counted in the work force. In Mexico, about one-third of the population is counted in the work force, including the millions of subsistence farmers who are the poorest people on the entire continent. The equivalent of the United States welfare system is the Mexican rural labor dependency system.

A better comparison would be the real adjusted gross domestic product per industrial worker, dividing the total product of the country by industrial workers. There the gap is closing. It is no longer 7 to 1. It is just 2 to 1. And, significantly, that is also the average difference between the United States and Mexican productivity in advanced industrial installations. That is the concern.

And, ironically, or maybe predictably, that gap also shows up in the real world where a Connecticut factory relocated to Mexico not so long ago, paying $5 an hour to Mexican workers, as opposed to $10 per hour to the Connecticut workers. They soon came back to the United States because the productivity in Mexico in that plant was not as high as the productivity in the Connecticut plant. They went back to Connecticut and rehired the very workers whom they had fired to move to Mexico.

The 10-to-1 ratio cited by Perot and others faithfully does reflect the pay differences between border assembly plants of, say, General Motors and General Electric, two of the biggest maquiladora employers, and between those factories and their unionized factories in the United States.

Some of those operations are directly equivalent in terms of job description and productivity, and the comparison, therefore, is apt. But such plants are atypical. Most maquiladora's offer repetitive, unskilled, high-turnover, labor-intensive jobs that in the United States would start just above the minimum wage, not at a significantly higher level, and not at unionized rates three times as high. So that is one picture, one snapshot.

Another snapshot is minimum wage. There has been a rough 8-to-1 discrepancy between the United States and Mexican minimum wage. An entry level Mexican worker earns in a day what his United States counterpart earns in an hour. But the maquiladoras are now paying well above the minimum wage in an effort to reduce turnover. The benefits at an average maquiladora are about $12 a day, with skilled jobs paying twice that, and the minimum wage in the Mexican border zone is about $5 a day.

But if the issue is the employment threat to U.S. factory workers, minimum and maquiladora wages are not the best comparison. In other words, the opponents argue that what will happen is that you will find factory work jobs that are being paid $16, $17 an hour going to Mexico. The skilled factory worker, against whom the U.S. labor most directly competes, typically earns at least $20 a day, four times the legal minimum—in some places $30 a day. So, more relevant than either the minimum or the maquiladora wages, and a more relevant contrast between average manufacturing wages in the two countries is the following:

As recent as 1987 that gap was about 13 to 1. Four years later the Bureau of Labor Statistics put it at 7 to 1. American manufacturing workers earned an average hourly wage, that is direct payments to employees before tax deductions plus mandatory employer expenses for insurance and similar benefits, of $15.95 an hour in 1991 compared to $2.17 for average Mexican factory workers.

This gap appears consistent with the argument that was made by the distinguished Senator from Maryland and reported. For example, Ford said the UAW will pay its skilled workers in Mexico about $2.87 an hour, not including benefits, compared with the $20 an hour in the United States. So on the surface this appears to be the 7-to-1 differential that the distinguished Senator from Maryland referred to.

But the figures understate real wages—real wages in Mexico. Most of the typical Mexican industrial payroll goes toward fringe benefits such as subsidized food, transportation, and even housing, plus mandatory profit sharing and a required Christmas bonus equal to an additional month's pay. Mexican workers also get double pay for overtime, a minimum of 20 days paid vacation per year, and for women 12 weeks paid maternity leave. According to one analysis of this full picture, the benefit package given to Mexican industrial workers equals a startling 62 percent of base pay compared with 8 percent for American wage earners. So some even add the costs to the employer savings held to finance dismissals.

With all of these factors added in, some companies with manufacturing on both sides of the border contend the real wage differential is more like 3 to 1, with the gap closing all the time. And I think that is, basically, if you were comparing them after you have added all of these fringe benefits. And 3 to 1 is still a pretty broad gap, somebody would say. It is still a pretty broad gap. In fact, New England's textile industry was lured below the Mason-Dixon line by much less.

But that is not the whole picture because, while Mexican productivity is fast catching up with United States standards, most Mexican plants are not modern. The country's entire industry, industrial plant, is not about to be upgraded overnight or even within a decade. Manufacturers based in Mexico must overcome transportation bottlenecks, supplier scarcity, and other problems which wipe out any gains from labor savings.

Labor productivity is a function of technology. Mexican workers will be consistently outperformed by United States workers for decades to come. For low tech manufacturing—and this is a point a proponent of the NAFTA has to face up to and admit—for low tech manufacturing, whose payrolls represent half of their costs, a move to Mexico could amortize labor savings over a 3- to 4-year period. But for most advanced industrial installations the productivity gap remains, that the huge expense of moving south could not be justified even by savings of up to $15,000 to $20,000 per worker per year.

Ross Perot, in an attempt to demonstrate the impact of low wages, makes the case in his public appearances: Well, what if there was—and he then states what his view is of the minimum wage in Mexico. "What if it was in California? Do you not think jobs would go to California"?

An audience listening to that presentation automatically concludes: Yes, we think it would go to California. But, of course, California we think of today in its present state with the only change being the lower minimum wage. But in order for a job to go to California there would have to be adequate water—add about an $8 billion investment for the Central Valley Project; $4 to $5 billion for investment in public water infrastructure for other water supply systems; add about $30 to $50 billion for a power grid; add $20 to $30 billion for port investment.

The point is, the low wage is not going to attract jobs to a place that has no water, no adequate power grid, and not an adequate supply of natural gas or other forms of energy, and not adequate ports. In other words, even the low wages will not bring jobs if the infrastructure is not there. And in a lot of places it is not there.

One final comment on that. When we did the hearing in the Finance Committee a few weeks ago, the head of Texas Instruments was there. He was building a big manufacturing plant in Dallas, TX. He had a few of these low cost assembly plants in Mexico. The question was, why did you not put this manufacturing plant in Mexico, because the wages are lower?

His response was, "Lower productivity." And his second response was, "I do not have an adequate power source. In order to get an adequate power source it would require billions of dollars of investment." One American company puts it at about $34 billion in just power grid investment in the next decade.

Most of those turbines and equipment will come from U.S. manufacturers that are producing with workers that earn 17 percent more than workers in this country who produce nonexport jobs.

So, Madam President, I simply wanted to rise at this point to try to put in focus the argument of low wages. The low wage in Mexico has to be seen in its total context, in which a 7 to 1 quickly drops to a 3 to 1, and then if you add the tremendous demand and need for public infrastructure investment, you find the differential shrinks even more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Madam President, over the past few months we have heard many strong and persuasive arguments in support of the North American Free-Trade Agreement. Likewise, we have heard many reasoned, and, I believe, sincere arguments against it. Those of us sent to Congress to represent the interests of our constituents back home have listened carefully. We have met with key people concerned about NAFTA—agricultural and factory workers, policy makers, business men and women, union leaders, consumer groups, and many, many more. I have met with the good people of United We Stand, and listened to their sincere concerns.

I believe we can all agree that this debate has not been an easy one. Then again, debate that surrounds important legislation seldom is easy. In fact, my experience has shown me that at times like this, the best thing we can do is not lose sight of the most basic principles involved. In this case, the debate over whether NAFTA should pass or not comes down to a few simple questions: first, in this era of increasing global competition, will NAFTA make America more competitive? Will it increase our ability to sell more American-made products abroad and thus create more jobs here at home? Second, do the long-term advantages of NAFTA—an agreement that will move America into a new era of international economic relations—outweigh the short-term concerns?

Third, in this post-cold-war world—a time when the walls of conflict and isolation are giving way to bridges of reconciliation and economic cooperation—in this world of technological miracles and potential for prosperity, is America going to maintain its position of leadership and its promising standard of living? Or are we going to stand by—because we dare not be bold or visionary—and watch the nations of the Pacific and the nations of Europe continue to develop in a spirit of enterprise, economic growth, and productive multinational partnerships because they are willing to suffer the growing pains that attend such change while we are not?

The answers here are important to our debate. They're important because if we are resolved to make America more competitive, to begin laying the foundation for well-paying jobs and increasing opportunities in the future, then NAFTA makes sense. If we are resolved to maintain our position of leadership in the global economic community, NAFTA makes sense. To be the leader, we must remain competitive, productive, influential, and cooperative. If we do, we will, in turn, secure for our children a life, that I believe, is even better than that which we are blessed to live. If, on the other hand, we do not have the courage to overcome our short-terms fears for what will be long-term gain, we will run the risk of losing this tide of historic opportunity.

The North American Free-Trade Agreement will move America forward. It will help us maintain our world leadership. It will open up the economies of the United States, Canada, and Mexico and create new opportunities for

growth and jobs here at home. It will benefit the consumer as well as the laborer; it will ease restrictions and tariffs on the small business man and woman. It will build strong cultural and economic relationships across our borders and demonstrate to the world that America is serious about strengthening trade relationships and encouraging prosperity rather than protectionism. This is why I support NAFTA.

Again, arriving at this decision has not been easy; it has been difficult for many of us. There are some very real concerns about the effect this agreement will have in the short term. It is likely that there will be job displacement. Regardless of the safeguards that have been built into the agreement, I believe that Congress must be sensitive to even one job that is lost. Certainly for the family of the worker who is laid off, the agreement—no matter what it might accomplish in the long term—is not worth the pain it will create within their home. For this reason, I was adamant in my support to assure that these families get trade adjustment assistance to help them retrain and reenter the work force.

Along with all of my colleagues, I am worried about any job loss that might occur in the short term; we will see displacement. Much of it will come with, or without, NAFTA, as some 25 million Americans change jobs every year. NAFTA will certainly be seen—with cause—as being responsible for some of the displacement in the next year or two, as our businesses, farmers, and manufacturers reshape their industries to embrace the potential of this agreement in the long term.

There is one concern, however, that is troubling many, and I would like to address it. Opponents of NAFTA are saying that once the agreement passes, all the good paying United States manufacturing jobs will disappear into Mexico where wages are lower; they warn that strong, high wage factory jobs in America will be lost.

That caution does not square with history; it does not square with the facts. First, American workers are the best, the most productive workers in the world; therein lies their power. The truth is, that any company desiring cheap labor can already set up a factory in Mexico, or any other country for that matter, to draw on the labor available there. But, with few exceptions, they do not. Why? Because labor costs are not the only determining factor when a company decides to locate a factory, or an office. There are many other considerations: Worker productivity, infrastructure, transportation costs, quality of living, just to mention a few. Many companies even now consider prevailing political attitudes and the interests and lifestyles of their employees. If the cost of labor was the only factor, every company in New York and New Jersey would have relocated long ago to the Western States where wages and salaries are much lower.

American companies would have fled to Bangladesh or Haiti, countries where the labor costs are very inexpensive. But they have not. The fact is, our workers are five times more productive than Mexican workers. We have the best, the brightest, the most productive workers in the world. That is why the reality is that companies like BMW and Mercedes Benz are coming to America for our people, because their dedication, training, and quality are unsurpassed in the global community.

These, of course, were only two of several concerns that I had as I carefully studied this agreement. There were others, and I will say that I believe NAFTA could be improved. It is not perfect. But after careful analysis, I am certain that its strengths—what it offers America, our future—far outweigh the weaknesses; its long-term potential is far greater than its short-term challenges. First, it will create the single largest, most powerful economy in the world, moving us toward a liberalized trade zone of some 360 million people in a $6 trillion market. We cannot even begin to understand what potential this has, especially in a world where international trade relations are quickly defining the future superpower nations.

Millions of American jobs—good paying jobs—are tied directly to trade. We are, in fact, the world's No. 1 trader. Almost a quarter of our gross domestic product is trade related. Over the past four decades, trade-related jobs in our country have grown three times faster than overall American job creation. I believe this is only the beginning. Just in the last 6 years, our exports to Mexico alone created more than 400,000 jobs here at home; this, despite the fact that those exports were taxed by Mexico with high tariffs at the border—despite the fact that our exports face difficult nontrade barriers in the Mexican market. We can only imagine what will happen when those tariffs and barriers are eliminated. And that is exactly what NAFTA does. It eliminates them. It will reduce the price of American goods to the consumer, it will expand markets in Canada and Mexico for our exports, and create opportunity here at home.

I am most encouraged by the potential NAFTA will have for Delaware. In the last 6 years, Delaware's exports have boomed by over 450 percent. Since 1987, my State's exports to Mexico have grown from $28 to $158 million. Consequently, Delaware companies, and particularly our agricultural sector, eagerly await increasing their exports as tariffs and barriers come crumbling down. In agriculture alone, it is anticipated that by the time NAFTA is implemented, revenues for coarse grain will increase by $400 to $500 million. Poultry will do ever better. Some say we will see a 150-percent jump in sales. Both of these items are important to Delaware. And we have other products that will find new markets.

For example, Jack Tarburton, the secretary of agriculture in Delaware, sees strong potential to export apples and other Delaware commodities. Beyond agriculture, Hewlett Packard, recently exported $2 million worth of product from its plant in Little Falls. DuPont expects to export $3 million in textile products to Mexico this year from its Seaford plant. Scott Paper, in Dover, anticipates $3 million in sales of Baby Fresh products this year. Once NAFTA eliminates the average 10 percent tariff that increases the price of products like these, the demand for Delaware exports will only expand.

The same holds for the auto industry in Delaware, an industry I have always been concerned about. In the 1980's, at the request of the UAW, I led the Republican side in the fight to save Chrysler. I was concerned about jobs, and was determined to protect them, so I fought for the bailout. Needless to say, it was a success. Look at Chrysler today, especially with its hot new LH line of automobiles. What we need to do now is expand the international markets for these quality and innovative American cars. At the moment, if we want to sell automobiles in Mexico, we must manufacture them in Mexico. That, of course, takes jobs away from Americans. NAFTA will break down the barriers. It will allow American cars to sell tariff-free in Mexico, the fastest growing auto market in the Western Hemisphere. to me, NAFTA does not break down the barriers quickly enough, as it will take 10 years to get rid of them completely.

I wanted to see this time shortened. But even with the phase out, American cars will immediately find a more open, receptive market. The Commerce Department forecasts that NAFTA will create $1 billion in the sale of new cars and auto parts to Mexico in 1995. This translates into 15,000 new jobs. The auto industry estimates that the United States will export some 60,000 cars to Mexico in NAFTA's first year alone. Last year, we only exported 4,000.

This is good for Delaware; it is good for our auto workers; it is good for our families, our businesses and our communities that support this important industry. Already, the Chrysler facility in Newark employs 3,600 men and women. Earlier this week, Robert Eaton, chairman of Chrysler, assured me that with NAFTA, that company will focus the LH car on the Mexican market. According to Mr. Eaton, based on the prospect of NAFTA's approval—and overall market conditions—Chrysler is planning to increase the potential production of the LH car in Newark by 100 percent, from 360 to 720 cars a day.

Part of this increase will be made possible because it's expected that by the time NAFTA is fully implemented, the Mexican auto market will have doubled. I want to see the Intrepids and Concordes made by Chrysler in Newark, and the Corsica and Berettas made by General Motors in Wilmington selling strongly in Mexico and bringing jobs home to Delaware. This is what NAFTA promises.

I intend to see this promise is kept. Because of a provision I insisted be included in the NAFTA implementing bill,the U.S.T.R. must report annually on the levels of United States auto exports to Mexico. The U.S.T.R. must report on whether the levels are in line with the export opportunities we are promised under the agreement. If they are not, then the U.S.T.R. must tell us what actions they will take to see that their forecasts are met.

Other industries in Delaware stand to benefit from NAFTA. Beyond our agriculture, our auto workers, our large chemical companies and those I have mentioned, NAFTA will also create growth opportunity for our small- and medium-sized businesses, as well as our manufacturing firms. For example MIDI, a small software company in Newark will benefit not only from the elimination of tariffs on its software exports to Mexico, but it will also be a main beneficiary of NAFTA's model intellectual property rights provisions. These are the highest level of intellectual property protection ever agreed to in any bilateral or multilateral trade agreement. Likewise, the Port of Wilmington, which depends on trade, will also benefit from NAFTA. Not only is it one of the largest ports-of-export for American-made automobiles, but it also specializes in fruit and meat trade, which is expected to grow under the agreement.

Needless to say, all of the firms and factories and farms that are strengthened under NAFTA will, in turn, strengthen the Delaware economy overall. Each of these is directly related to, and dependent upon, the suppliers, the service and entertainment industries and the other supporting entities within our state's economic community.

Madam President, what I have outlined are only a few of the reasons why I am going to vote for passage of the North American Free-Trade Agreement. Largely, these reasons concern increased jobs and opportunity in the United States, and particularly Delaware. But they are not the only reasons why, after careful study, I believe this agreement must be approved. Not only will NAFTA benefit the consumer, who now pays some $1,000 a year for trade tariffs, not only will it provide for long-term economic opportunity for our workers and entrepreneurs, not only will it benefit agriculture, but it communicates a clear signal: that America is out to sell its products to the world.

IMMIGRATION/LATIN AMERICA

NAFTA is a historical turning point in our relationship with Mexico and the rest of Latin America. After decades of suspicion and trade barriers, these countries are ready to establish positive and open ties with our country, both economically and politically. It is certainly to our long-term advantage to reciprocate. Our economy is 20 times larger than Mexico. U.S. tariffs are very low compared to the high tariffs they place on our goods. For example, we are giving up our 2.5 percent tariff on Mexican goods coming into America while Mexico is giving up its 20 percent tariff on American automobiles going south. While imports from Mexico represent less than 7 percent of our total imports, fully 70 percent of Mexico's imports come from the United States. If we help Mexico grow, we will grow—strengthened by the relationship.

History has proven that free trade between nations raises wages; it does not lower them. It has also proven that trade is not a zero-sum game. As conditions improve in Mexico, as standards of living are raised, our products will be in even greater demand. That demand will, in turn, increase opportunities for jobs and security here at home as we create businesses and factories to meet those demands.

Also as conditions improve south of the border, I believe we are likely to see control and restraint replace the current chaos in the flight of illegal immigrants into America. Our friends in Mexico will much more likely stay in Mexico when the promise of a job replaces the lack of opportunities that now brings them north.

APEC/URUGUAY ROUNDS

Now more than ever, American prosperity is linked to our overseas markets: trade accounts for some 25 percent of U.S. gross domestic product. For each extra billion dollars in goods we sell overseas, almost 20,000 jobs are created here at home. The question is: Do we move forward, building upon these successes, creating new realities, new opportunities and long-term relationships that will benefit all responsive trading partners? Or do we remain dormant, afraid to move and satisfied with less than what our potential offers? I believe we must move forward.

NAFTA is a demonstration of America's commitment and leadership. Even now as President Clinton meets with the ministers of the Pacific nations—one of the most dynamic economic regions in the world—as they meet in the Asian Pacific Economic Cooperation forum in Seattle, the passage of NAFTA signals America's commitment to productive trade relations. It signals our commitment to an environment where our products can sell and where jobs can be created here in the United States. Likewise passage of NAFTA signals to the nations now concluding the Uruguay round that America is dedicated, that we are serious, about seeing a successful conclusion of those most important negotiations. It creates a momentum that I believe is important, not only for America, but for the world—momentum that will lead us into a new era of dynamic economic relationships, lifting all nations, strengthening diplomatic ties, and creating opportunity and jobs here at home.

This is the potential NAFTA offers. It is in America's best interest to embrace this agreement. If we don't, it's likely that—given its potential—somebody else will. If we do, it will open a new, and I believe an exciting door, to our future.

Madam President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the Chair.

Madam President, I commend my colleague from Delaware for his very thoughtful presentation on NAFTA. Senator ROTH, with his long experience in this body, has earned a reputation as one who is extremely knowledgeable on economic matters, who has led the way in many areas of reform and economic progress.

I believe that when he speaks on this vital subject of creating jobs, economic growth, and opportunity for the United States and for Delaware, he speaks as a man whose credibility is assured and whose persuasiveness is quite clear.

Madam President, open markets and fair trade have created millions of American jobs in the past five decades. As Governor of Missouri and now as Senator, I have spent a good deal of my time trying to help create jobs in Missouri through expanding export markets. I have marveled at the economic progress that they have brought to our State.

I have been amazed at the opportunities that we continue to let go by in every area. There is much more that we can do to create more jobs through better access to the world markets, because American workers are the world's most productive, and they can compete and they can win in world markets if they are given a fair opportunity.

President Bush started the negotiations for the North American Free-Trade Agreement and President Clinton came along, gave it his strong support, and added the side agreements he felt were necessary to ensure that it would work well.

Madam President, we can all quibble, I am sure, with some elements here or there, and you have a major piece of agreement. You have extensive legislation—many, many pages. Certainly somebody could quibble with many different details.

But I support this agreement. I believe it is vitally important that this body go on record giving a strong endorsement to NAFTA and to the supporting legislation because I think it is vitally important that we show the world that we support President Clinton as he goes to the Asia Pacific economic cooperation meeting in Seattle; that this legislative body of the United States does support free and fair world trade.

Turning specifically to the agreement with Mexico, currently our second largest market for manufactured goods and our third largest market for agricultural exports, the total United States exports to Mexico increased from $12.4 billion in 1986 to over $40 billion annually in 1992. And in 1992, we ran a $5.6 billion trade surplus with Mexico.

Our success in exporting to Mexico has all come while the Mexicans have maintained higher tariff barriers to our products than we maintained to theirs, thus giving them a protectionist advantage, although I think we must in all fairness recognize and congratulate the Mexican Government for the major reductions and the major improvements that they have made in trade. They have brought barriers down.

President Salinas has been courageous in saying that economic progress and opportunity for the people of his country of Mexico can best come through free and fair world markets, and it is working.

Mexico's average tariff against United States exports is still about 10 percent, while the average United States tariff against Mexican goods is only 4 percent. That means that their tariff barrier walls to our products have been 2½ times as high as our walls to their products.

In agriculture, those walls are even more unbalanced. Mexico's average tariffs on United States agricultural exports are 16 percent. United States tariffs on Mexican farm products average 4½ percent. In other words, the Mexican barriers to our agricultural products are some 3½ times ours on their goods.

If this body, the United States Senate, were to reject NAFTA, we not only would give up the potential gains to be made by cutting their higher tariffs, but we would also jeopardize the huge existing market and the trade surplus which we currently have with Mexico.

Many United States manufacturers are now forced to open plants in Mexico to avoid these high tariffs and other restrictions. A good example is in automobiles, where a 20-percent Mexican tariff is applied to United States-produced cars. We have a tariff, as my colleague from Delaware has pointed out, of only 2.5 percent on cars produced there. To get around the tariff of 20 percent and the other restrictions, manufacturers have moved to Mexico to build their cars. NAFTA would reduce this incentive for manufacturers to move plants to Mexico.

Mexican law currently requires that autos sold in Mexico contain 36 percent Mexican parts content, and that United States auto companies export twice as many cars from Mexico as they import into Mexico. NAFTA would remove this incentive also for manufacturers to open plants in Mexico. American auto makers estimate they will export 60,000 United States made autos in the first year of the NAFTA to Mexico. The Chrysler Corp. plans to export about 10,000 more minivans to Mexico if NAFTA passes.

So, for those who are concerned about jobs, we need to focus on the jobs that can and will be created and to focus on the disincentives that now exist for creating those jobs in the United States to export to Mexico.

If we are successful in passing this agreement, Mexico's $6 billion telecommunications market will finally be open to United States competition. We will offer them everything from central office equipment and voice mail to private networks, data processing, gaining wide new markets, probably even video games for the young people of Mexico. They cannot export enough video games from the United States, as far as I am concerned. But maybe we can at least share some of the ones that our young people now enjoy.

For electronic equipment, the NAFTA will eliminate tariffs of up to 20 percent, open up Mexican Government procurement, eliminate nontariff barriers and technical standards, and; increase intellectual property protection.

With the North American Free-Trade Agreement, U.S. agricultural exports will expand by $2.5 billion. We believe in Missouri agricultural exports will expand by $45 to $60 million. U.S. cattle prices are expected to be 50 cents to $1 per hundredweight higher, and the beef industry revenues are expected to be $200 to $400 million higher than they would be if the NAFTA were not passed.

Cattle and calves are Missouri's leading generator of farm cash receipts. Under the NAFTA, Mexico immediately will eliminate current duties on live cattle, chilled and frozen beef, 15, 20, and 25 percent, respectively. The USDA predicts that by the end of 10 years, United States beef exports to Mexico will exceed 200,000 metric tons annually, or about triple the quantity exported last year. United States soybean prices are expected to be about 2 percent higher. Industry revenues are expected to be about $400 million higher. Under the NAFTA, U.S. soybean exports are expected to be about 20 percent above what they would be without the agreement. United States hog prices will likely be 50 cents to $1 a hundredweight higher. Industry revenues are projected to be $50 to $100 million higher. United States corn exports are likely to be 60 percent higher. United States corn prices are expected to be 6 cents a bushel higher than without the NAFTA. Mexico will eliminate its restrictive import licensing requirements and provide immediate duty-free access to 2.5 million tons of corn, double the amount the United States exported into Mexico in 1991 and 1992. United States exports of milk powder to Mexico will increase 50 percent. Exports of other dairy products are expected to increase 15 percent.

In my State, that not only means better jobs, better markets for Missouri dairy producers, but processors of milk products in Missouri tell me of plans to reopen plants that have been shut down, to process dairy products to send the value-added dairy products to Mexico. The NAFTA is a winner for the State of Missouri and for the United States.

It is clear that Mexico needs what we produce in this country, and our Missouri workers can take advantage of that, as well as workers around the country.

The question before this body when we come to a vote will be: Will we remain the leaders of the world, or do we retreat inward? The last time we fled from competition and built trade barriers around this Nation, it led us straight into the Great Depression. The American farmer remembers all too well the consequences of the more recent grain embargo of 1980.

If we are to compete in the 21st century, we must be willing to take head-on the competition from Japan, from growing Asian countries, and from countries all over the world. We should note that in terms of market access right now, Mexicans buy much more per capita—that is, each Mexican—on the average than the average consumer in Japan. We cannot afford to abandon this opportunity to sell more goods to Mexico, because every opportunity we miss, we can see our competitors taking full advantage of it. Whether they be from Japan or other countries, they will take advantage.

Without the NAFTA, I assume, and we can expect, that Japan will set up shop in our own backyard. Americans are and have been competitors. We are the world's most talented work force and most productive workers. Last fall, I had the pleasure of visiting a factory in the middle of Missouri. They had just closed down an operation in Mexico where wages were one-fifth of the wages paid to the workers in Sullivan, MO. They brought that production back because even with the wage differentials, the American workers—the workers in Sullivan, MO, were that much more productive for every dollar of labor input than were the workers with whom they were competing.

There is no reason for American workers to shrink from the future or to

hide from challenges. For 50 years, we have fought to eliminate trade barriers around the world. We are supporting President Clinton in his efforts to move forward not only in the NAFTA, but with APEC in the GATT negotiations. We have led the world to free trade and created millions of American jobs in the last five decades.

Now we have the opportunity to go on record to lower trade barriers with our next-door neighbor, to export more American goods and services. I believe we must seize the opportunity to create jobs with this agreement and to lay the foundation for future job-creating agreements and progress in the future.

American workers are proud workers and they are productive workers; they can compete, and with the adoption of this agreement they will.

I yield the floor.

Mr. BAUCUS. Madam President, I yield 12 minutes to the Senator from New Mexico.

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

Mr. BINGAMAN. Madam President, I thank the Senator from Montana for the time.

I rise to speak in support of the North American Free-Trade Agreement. There are three basic reasons why I believe the agreement is in our best interests, both as a country and for the State that I represent.

First, I believe the United States can only prosper in this new and highly competitive global economy if we boldly step forward to compete, and forging closer ties with Mexico can be a significant help to us in that larger competition.

Second, this treaty will, I believe, provide new jobs for my home State of New Mexico, right along the border with Mexico.

Third, our common destiny with our neighbors, both to the south and to the north, dictates that we should strengthen our cooperation and our interaction with them, and this treaty can be a vehicle for us doing that.

Let me say a word about each of these reasons. First, the issue about the United States needing to step forward and compete in this highly competitive global economy. This year, and for the last decade, the United States has been running an enormous trade deficit. If the monthly trade deficit continues as expected through the remaining months of 1993, the deficit this year for our country will be in the range of $110 billion to $115 billion.

When we look at which countries are the source of that imbalance in our trade, we begin to see the proposed NAFTA agreement in the proper context. Mexico does not contribute to that deficit. In fact, it helps us to offset trade imbalances with other countries. Last year, we had a $5 billion trade surplus with Mexico. Our deficit in manufactured products relative to the rest of the world is almost exclusively a result of trade with Asian countries. In 1992, that same year, we had a $50 billion trade deficit with Japan and an $18 billion trade deficit with China. That same year, we had the surplus with Mexico. The deficit with China is expected to grow to near $25 billion during this calendar year.

The main changes in tariffs contained in NAFTA, as many of my colleagues have mentioned, are reductions in Mexican tariffs on United States and Canadian products. There are currently very minimal United States tariffs on what Mexico sells to us. Although the Mexican market is a small fraction of ours, a major challenge for United States business is to take advantage of this Mexican market as it continues to grow. No doubt jobs have been lost to Mexico under the maquiladora program and there will be additional jobs created by United States firms in Mexico for in the future. However, the increased opportunity for job creation in the United States in order for us to produce products and services for sale in Mexico is what is new under this new agreement.

Whether NAFTA is approved or not, it is clear that the United States ability to prosper in the global economy will depend on how effectively we can pursue an export strategy, not just an export strategy to Mexico, but an export strategy to the entire world. Our economic success during the first seven decades of this century led us to the conclusion that we could prosper, as individual companies and as a country, without an effective and a persistent and aggressive export promotion effort. That conclusion was false. Unless we recognize the need to concentrate on exports and to persist in pursuing exports, as our most successful trading partners have, we will continue to fall behind in global economic competition regardless of what we do in this NAFTA debate.

Not only does the approval of the NAFTA provide us with an opportunity to increase our exports to Mexico, it also provides us with an opportunity for all three countries, the United States, Canada, and Mexico, to combine and increase exports to the rest of the world. To put it simply, we can learn from what Japan has been able to accomplish with its investments in other parts of Asia, particularly in Thailand.

Japan has been able to invest in Thailand, send parts to Thailand for further assembly, and then to sell finished products in the world market. This arrangement has benefited the economies of both Thailand and Japan and it has helped to keep Asian-produced products competitive in the United States market even with the strength of the yen that we have seen in the last year. The greatest opportunity presented by NAFTA for all three of our countries is to make similar arrangements and to concentrate on exporting outside of North America to the rest of the world. In creating an arrangement similar to what Japan has done in Thailand, we can also ensure that the North American economy does not become a zero-sum game. In such an arrangement, job creation in Mexico does not mean job loss in the United States. Instead, both countries can increase jobs by exporting to the rest of the world.

Taking advantage of this important opportunity can be part of a much-needed strategy to bring some balance to our trade relations with Asia. While we are here debating tonight how we have maintained a reasonable balanced relationship with our neighborhoods to the north and the south, our trade relations with Asia continue to spiral out of control.

President Clinton traveled today to Seattle to attend a meeting of the Asian-Pacific Economic Cooperation Group. He is where he needs to be. Asia is where our trade problems exist.

We seem unwilling, unfortunately, to recognize that China does not have a fully market based economy. China maintains low wage rates and relatively little in the way of environmental regulations so as to ensure its products undersell all others in our market here in the United States. At the same time, the Chinese Government has put in place an elaborate array of restrictions on the sale of United States-made products in the Chinese market.

Madam President, I have seen the trend lines, and unless we significantly change our policies we should expect our trade deficit with China to exceed our trade deficit with all other countries before the end of this decade. China will replace Japan as the country with the greatest trade surplus with the United States. That is the source of the job loss that the NAFTA opponents are complaining about.

In the coming months, I hope to work with this administration to help solve that problem, just as I believe many of us are working with the administration to gain approval of the NAFTA in these final days of the session.

This treaty will provide the opportunity for new job creation in my home State of New Mexico and throughout the Nation.

Simply eliminating tariffs will not by itself result in increased exports from New Mexico—or any State, for that matter—to Mexico. Each State must be prepared to take advantage of the opportunities made available by NAFTA. Although New Mexico has not traditionally been a large trade State in the past, we are making progress in improving New Mexico's trade numbers. A few years ago I created a Border Business Task Force in New Mexico

to help mobilize our businesses to export to Mexico. The Governor of New Mexico and I have both led trade missions to Mexico. Other groups in New Mexico, especially the Hispano Chamber of Commerce, have also been extremely active in cultivating a trade relationship between New Mexico and Mexico.

New Mexico, and the other States, must continue to pursue exports aggressively. In addition, we must strengthen our education and training efforts to enjoy that we maintain a productive, high-wage economy. And we must improve our trading infrastructure to support that economy.

In New Mexico, I have worked hard to improve the trading infrastructure. I have consistently fought for our ports of entry at Antelope Wells, Columbus, and Santa Teresa, and the propose port of entry at Sunland Park. I and other New Mexicans are anxious to further develop this trading infrastructure by creating a New Mexico-based customs district. Currently, all major decisions for New Mexico ports are made in Texas. If new Mexico is to become a major exporter, we need the decisions about trade and ports-of-entry to be made from within the State, in a New Mexico-based customs district. At the very least, we need to be assured if the customs personnel and resources necessary to handle the increased trade at New Mexico ports of entry. I have been assured by the Commissioner of Customs that the administration is committed to working with me in providing those resources.

I am also working on creating support for our natural and cultural resources along the border. The Rio Grande has been called by some the most endangered river in the United States. The NAFTA process provides us with an excellent opportunity to identify resources for addressing this and other pressing environmental and health issues along the border. The administration has expressed support for my proposal to create a private-public partnership—a trust, of sorts—to be a permanent resource and advocate for preservation of the Rio Grande River. This effort could help ensure a truly binational effort, for the first time, to preserve this great resource that our country shares with Mexico. I believe that this effort would also complement the other provisions in the NAFTA legislation to improve and preserve our border environment.

It is my hope that the administration will follow my recommendation for locating its new border EPA office, charged with addressing our border environmental challenges, in New Mexico. New Mexico is centrally located along the border, and would provide an ideal base for efforts to preserve our natural resources.

Our common destiny with our neighbors dictates that we should strengthen our cooperation and interaction, and this treaty can be a vehicle for doing so.

Mr. President, economic issues often cannot be separated from their political and socioeconomic context. That is certainly the case with NAFTA.

I was born and raised near the border with Mexico. And now, at the advanced age of 50, I have concluded that we are neighbors with Mexico in 1993, and more importantly, we are destined to remain neighbors for a very long time.

That fact gives our nations a common destiny. That fact means that to some significant extent our futures rise and fall together. If the United States loses its world economic leadership, Mexico will suffer and if Mexico is unable to pull its people out of poverty the United States will shoulder a heavy load in the decades ahead.

Speaking about our common destiny with Mexico comes easily to those of us from the Southwest. New Mexico was part of Mexico from the period 1821 to 1846. The same river known to the Mexicans as the Rio Bravo is known to us as the Rio Grande. For over two centuries the trade routes from Chihuahua north to Santa Fe, Espanola and Taos were better traveled than any route from English speaking America.

The NAFTA debate has, unfortunately, brought to the forefront some of the negative aspects of our joint relationship with Mexico. It is my hope that we can now use NAFTA as a tool for improving our relationship and understanding of each other. It is my hope that the trade routes from north to south can come alive again, and with it the channels of communication and cooperation between our countries.

CONCLUSION

Madam President, each of our three nations is home to proud people with a rich heritage. We each want a better life for ourselves and our children. NAFTA represents an opportunity for us to achieve that better life by working together.

Many of the votes we cast in this Senate cause us to choose between our hopes for what might be and our fears of the unknown. This is such a vote for me, Madam President, I choose to vote my hopes.

Thank you, and I yield the floor.

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

Mr. HATCH. Mr. President, I yield such time as I may need.

Mr. President, I am a strong supporter of the North American Free-Trade Agreement. I think it is something that we really have to do. If we do not pass this agreement, we will set back hemispheric relations at least 60 years at a time when we have an enlightened President of Mexico, who is bringing the Mexican people into an awareness of how much we north of the border reach those south of the border.

Frankly, I never thought these changes would be brought about in my lifetime, but they are happening. And the Mexican people are very, very supportive of the United States in many ways, and they are looking forward to working with us and having this free and open trade but, more important, all of the Central American and South American countries are likewise eager to see if we really mean what we say about free market economics and about democracy.

This particular debate is about the future. It is about whether we are going to really go forward into the future and be willing to compete with anybody, which we can easily do and do better than anyone else in the world, or retrench and become protectionist and start the downward trend that all countries who have done so have experienced.

On Sunday, August 29, 1993, I left for the Dallas-Fort Worth Airport, and then arrived a short while later at Love Field in Dallas. There I linked up with Senator DOLE, Senator GRAMM, Senator MCCAIN, Senator CREGG and Congressman HENRY BONILLA. Congressman BONILLA is the first Republican Hispanic Congressman ever elected. I do not know when I have been so impressed with another individual as I was with him on this trip. But we got into one of our Air Force planes and flew into Mexico City where we met that evening with John Negroponte, the then-Ambassador to Mexico, at his residence. We had a quick country team briefing and then met with Mexican and American business leaders.

We had an interesting evening with them and we talked about the North American Free-Trade Agreement. This meeting involved the key Mexican Government leaders and representatives of both Mexico and the United States and respective business communities.

The next morning we got up early and we went to a breakfast meeting with the President of Mexico, President Carlos Salinas de Gortari, at Los Pinos. It was a terrific breakfast and we discussed with him these problems. I think this President of Mexico has placed everything on the line.

If the North American Free-Trade Agreement is not agreed to by the Congress, it will, like I say, set back Mexican-American relations and hemispheric relations at least 60 years.

One of the significant things that President Salinas said during this whole conversation was about Mr. Perot. After seeing the book that was written by both Mr. Perot and Pat Choate, the President of Mexico, speaking about Mr. Perot, said, "Has he no decency?"

I was interested in that because that seemed to be the perception of people in Mexico, and the top leader in Mexico, about some of the writings in that book.

Now, I happen to know Mr. Perot, and I like him very much. We have

been friends ever since the Elizabeth Morgan legislation, which I pushed through Congress a number of years ago. He became convinced that she should not languish in jail on a simple contempt charge and he became one of the principal supporters of that legislation. I respect him for that.

But the President of Mexico felt that this book by Perot and Choate was isolationist, protectionist, and really wrong. And I was interested in that comment.

I have to say that the opponents of NAFTA have been ignoring some of the key facts. This will prove to be an excellent agreement that will be beneficial to the U.S. economy, U.S. workers, and the environment.

For instance, No. 1, NAFTA will create over 200,000 jobs in the immediate future. Already we have approximately 700,000 jobs that depend upon trade with Mexico; in other words, jobs that relate to exports to Mexico. Without the North American Free-Trade Agreement, not only would we lose these 200,000 additional jobs, but we are very likely to lose the 700,000 jobs that are dependent upon exports to Mexico.

No. 2, NAFTA creates a liberal playing field for U.S. exporters. For instance, NAFTA will reduce Mexico's trade barriers and, over a period of 10 years, reduce all of the Mexican tariffs which are now at 10 percent, which is 2½ times ours, at 4 percent. That will create plenty of jobs in this country, because naturally people in Mexico are going to buy more American goods which, of course, will put more Americans to work producing those goods.

No. 3, NAFTA will provide, according to the side agreements, better environmental protection because all three countries—Canada, the United States, and Mexico—will be much more concerned about the environment and will have greater obligations to produce a good and decent environment.

No. 4, we will be able to compete more effectively against foreign competition. NAFTA will create the world's largest trading market with 370 million people and an almost $7 trillion combined economy. That cannot be ignored. And we will be able to compete with any other force in the world. That is one of the progressive, forward-looking things that is good about this agreement.

No. 5, NAFTA will grant our country more access to sell United States products to Mexico's growing market of 90 million consumers. We cannot ignore that. And they love our products. Literally 70 percent of every dollar that is spent in Mexico for imported goods comes to the United States of America.

No. 6, U.S. workers will benefit from NAFTA's influence on the changing global economy. As I have said, it will create the most powerful economic market in the world, greater than the European Community, with 370 million people in a market with an almost $7 trillion gross domestic product.

No. 7, NAFTA will allow the United States to provide worldwide leadership during the post-cold war period so that the whole world will benefit.

We are finding our worldwide competitors, especially those in Europe and Asia, to sometimes be almost overwhelming. This is a good way to respond and be more competitive.

Although Mexico's average tariff is 2½ times higher than ours, over 50 percent of our imports from Mexico enter this country duty free. Our average tariff is 4 percent, while theirs is 10 percent. Mexico has complex domestic licensing requirements that impede our current ability to sell freely in Mexico. These will disappear under this agreement. The NAFTA agreement will expand our access to Mexico and open up trade with Mexico like never before.

It will eliminate these tariffs and, even more importantly, perhaps, the nontariff barriers, such as exist on automobiles and agriculture right now. We expect the NAFTA agreement to require Mexico to get rid of its protectionism and overregulation.

For instance, almost half of all United States exports to Mexico will be eligible for zero Mexican tariffs by January 1, 1994, the day NAFTA takes effect. The number of products that will be eligible for tariff free treatment to Mexico include medical devices—something very important for my home State of Utah, where we also have some of the most important software industries in the world. Other industries that will greatly benefit include semiconductors, also important to my home State of Utah and many other States—and computers, electronics, machine tools, telecommunications equipment, aerospace equipment, and other various types of equipment, all of which we do better than anybody else in the world.

After 5 years, two-thirds of our industrial exports to Mexico will enter Mexico duty free. What a benefit that will be to our manufacturers. Mexico, under NAFTA, will eliminate 70 percent of its duties over 5 years and will phase out most all of the rest within 10 years. Our service exports to Mexico were $8.9 million in 1992, and NAFTA will require Mexico to completely open its markets to United States services exports. This means telecommunications services, insurance, banking, accounting, and advertising services will be able to compete in Mexico.

If NAFTA is passed, we will have even greater access to Canada's services markets. It will be greater than under the current United States-Canadian Free-Trade Agreement. And that is something that not many have mentioned.

Under current law, Mexico requires United States companies in Mexico to purchase Mexican goods instead of United States-made components and equipment. Their laws require us to export their production, usually to the United States, instead of selling directly in the Mexican market. They currently require us to produce in Mexico in order to sell in Mexico. All of that will be eliminated by this NAFTA agreement.

Almost all of the economic studies show that the labor effects of NAFTA will result in increased jobs and increased real wages or both. We anticipate that, as I have said, there will be 200,000 more export-related jobs within 2 years to be added to the already estimated 700,000 jobs attributed to exports to Mexico as of last year. This will allow us to push our employment to 1 million jobs as a result of our NAFTA agreement.

If we do not enact NAFTA, I suggest there will be a reduction in exports and related jobs. We believe that Mexico will begin to turn elsewhere than to their neighbors to the north. Now our high paid workers compete with low paid Mexicans. If NAFTA is passed, we expect wages in Mexico to go up and jobs to be created there, as well. This will keep Mexicans in their own country instead of illegally migrating to the United States. That alone will benefit organized labor. It will benefit every working person in America, that we will not have low-cost labor coming into this country because they will want to stay in their own home country.

Those who argue that we cannot compete with low-wage Mexican workers are arguing untruths.

The White House is quick to point out that if low wages were the primary factor, then Haiti and Bangladesh would be job and manufacturing powerhouses, and as we all know, that is not the case. Our workers are five times more productive than the workers in Mexico.

However, if NAFTA passes, we can expect Mexican productivity to go up and it will probably keep Mexicans at home, rather than giving them incentives to illegally immigrate into our country.

Keep in mind, United States exports to Mexico have risen from $12.4 billion in 1986 to $28 billion in 1990. And as of 1992, $40.6 billion. That is a remarkable growth.

This now makes Mexico our third largest trading partner in the world. In fact, from a manufacturing standpoint, they are our second largest trading partner.

People in this country have not realized that. We really are expanding, and they are really growing, and we have to recognize it.

Our trade balance with Mexico has gone from a $5.7 billion deficit in 1987 to a $5.6 billion surplus in 1992. We expect it to be higher than that in 1993.

In other words, since 1986 our merchandise exports to Mexico have increased by 228 percent or 2.3 times faster than our exports to the rest of the world.

Our manufacturing exports to Mexico in 1992 were $34.5 billion. That makes Mexico the second largest market in the world after Canada for our manufactured exports.

Mexico is our third largest market for agricultural products. We sold to Mexico $3.7 billion in 1992, and that is a 242-percent increase since 1986.

As I pointed out before, and I think it is important to point out again, 70 cents of every $1 Mexico spends on foreign products goes to purchase United States goods. Because of our close proximity to Mexico and the renewed friendship that would occur from this agreement, we believe that this would continue to expand even faster.

As a comparison, each Mexican on the average purchases more than $450 of United States-made products each year. Japanese per capita expenditures on United States products are $385. So each Mexican spends $450 compared to Japanese expenditures of $385. That is interesting because the average Japanese income is five times higher than the average Mexican income.

What does it take for us to wake up? I have listened to some of the arguments on the other side and they do not make any sense when you start looking at the facts.

Mexico is also the U.S. telecommunications industry's second largest customer. Only Canada exceeds Mexico with regards to telecommunications.

We would expect that our small and medium-sized businesses would greatly benefit from the NAFTA agreement. First of all, they would, for the first time, be permitted to penetrate the Mexican market without having to invest in Mexico itself as required by the current nontariff barrier laws.

I think the administration makes a very great set of points in this one paragraph. They said in one of their brochures:

> NAFTA will create jobs and improve our competitiveness. It will create the largest, richest market in the world. Mexico's strong and growing demands for U.S. products has created $5.6 billion U.S. trade surplus. With a stronger Mexican economy and higher Mexican wages, demand for U.S. goods will continue to expand. Increased access to the rapidly growing Mexican market will create extraordinary new opportunities for U.S. companies and workers. Taking advantage of these opportunities will lead to increased prosperity in the United States. It will demonstrate American leadership in advancing open markets and promoting democracy here in our hemisphere. NAFTA is good for America.

That is about as good a summary paragraph as I have ever read with regards to NAFTA, put together by the Clinton administration, which I admire on this issue. The President is right on this issue.

I might say, because of some unions in our country, and some environmentalists as well, the NAFTA agreement has had to have environment and labor supplemental or side agreements.

Even though they have made a real effort in effectuating these side agreements, the unions and many of the environmentalists have not bought off on them. In fact, as was seen yesterday, DAVID BONIOR, the House majority whip, and a person I happen to admire, led a very interesting fight on this agreement, as did my other friend over there, the majority leader, RICHARD GEPHARDT, because those side agreements, they did not believe, were good enough.

I do not think they are good enough either. If I were to rewrite them, they would be written much differently. But they are written as well as they can be written between our two countries at this time and they are an agreement, after all.

I might say I am proud to see so many Republicans strongly in support of the NAFTA agreement. I am proud to see us supporting the President on this one because he is right. We have to distinguish this from the budget agreement, in which we felt he was definitely wrong.

During the meeting with President Salinas I particularly raised the fact that although Mexico has now enacted a new world class statute—that is using Carla Hill's terminology—but I agree with it—it is not being enforced. I am speaking, of course, of their intellectual property statute.

A number of years ago, when, according to President Salinas, I was the first Senator to visit the President of Mexico in 15 years—I brought up that they needed to change their intellectual property laws and update them. And they have decided to do so, because the Business Software Alliance filed software infringement cases in January 1992, and four new cases again in May 1993 against software dealers in Mexico. However, much more needs to be done. The Business Software Alliance knows of no seizures of counterfeit products or other enforcement actions to enforce these new laws. I brought that to his attention. He said they will try to do what they could about it.

The American Amusement Machine Association says that 500 to 2,000 pirated video game circuit boards arrive every week en route to the United States. The United States needs Mexico's help to keep out Okinawan and Taiwanese counterfeits coming through Germany and Mexico into the United States. He agreed to do something about that and I believe him. I think he will.

I also raised the point that patent agreements need much work as the Government of Mexico still has not approved legislation implementing their patent law.

I raised all these points with President Salinas including one other. Mexico has played a pivotal role in multiphased air surveillance of drug trafficking planes coming into Mexican airspace. They have to complete four radar installations. They have completed two of them. We brought up that they need to complete three and four. The last two phases will provide three radars, communications equipment, and a sector operation center and regional command center operated 24 hours per day by the Mexican Air Force.

The first two phases have been extremely important and successful. However, now the narcotraffickers are circumventing them by flying over the Yucatan and Acapulco regions. They fly around the radar which extends over 240 miles out to sea.

I have to say I suspect they are not very enthusiastic about having to spend another $80 million for phases three and four. However, it would only cost them 15 percent up front, or about $12 million, because the Eximbank would finance the rest.

Both the President and his Commerce Secretary, Jaime Serra Puche, took great note of this and indicated they will try to do something about it.

I might say, I did point out to them that Willie von Raab, my friend, the former Commissioner of Customs, has written an op-ed piece criticizing their failure to complete this radar.

But what we have to give the Mexicans credit for is how much they have done to interdict drugs that would have come to this country, and how much more they will do if we enter into this agreement; how much more cooperation we will have, with our Drug Enforcement Administration agents; how much more help we will have from them in trying to protect our kids in this country from illegal drugs.

That is something you cannot ignore. We need to effectuate this agreement so we can continue to fight this war against drugs. The Mexicans are tremendous allies in this war as of right now. As we pass this agreement, and it becomes implemented into law, I think they will become even more vociferous and helpful to us.

Some of the arguments against NAFTA are that it is going to cause a loss of U.S. jobs. I suspect that is true in part, but we will lose jobs no matter what we do. The fact is we are losing jobs in many respects now, without the forward, progressive approach that NAFTA will give us.

NAFTA opponents claim our market is going to be flooded with cheap Mexican imports produced by inexpensive Mexican labor. In fact, we are going to gain many more jobs under NAFTA than we will lose because freer trade with Mexico shows increases of jobs because of sales in Mexico of United

States goods and services, as I have pointed out. And I believe that since our exports to Mexico have increased since 1986 by 227 percent, which is twice as much as imports from Mexico to our country, that is going to continue.

The Congressional Budget Office and virtually every economist of note have found that we will have a net increase of jobs and income as a result of this agreement.

The U.S. International Trade Agreement said that all of the leading studies, "find that aggregate U.S. employment rises as a result of NAFTA."

Another argument opponents use is that we will suffer severe job losses in the short run even if we gain some jobs in the long run. In fact, increased exports to Mexico will bring between 200,000 and 300,000 new jobs by the end of 1995. Such job gains have already begun as many companies are increasing their production, believing that NAFTA will be approved. And it will be.

Another argument is that United States companies will move jobs to Mexico to take advantage of the low-wage Mexican workers. That is completely false. Our workers are five times as productive as Mexican workers. Frankly, there is nothing stopping United States companies from moving to Mexico right now. Why would they not do so since they have every right to? They do not need NAFTA in order to do so. If the moving of U.S. companies is determined by low wages, it seems to me that most of the Third World countries would be automatic superpowers because we would have moved most of our businesses already. That just simply is not the case.

Another argument is that NAFTA will result in the reduction of United States wages because United States workers would have to compete with lower paid Mexican workers. The exact opposite is true because Mexican wages are not nearly as low as some of our NAFTA opponents assert, and those wages are going to go up.

Another argument is that United States companies will divert investment in jobs from the United States to Mexico. Actually, the United States, by enacting NAFTA, will be able to attract more capital from all over the world. Our economy will not be harmed. The Congressional Budget Office asserts that investment in Mexico will "appreciate the Mexican peso and push Mexico's trade balance into deficit for some time. This scenario would benefit the United States by increasing exports to Mexico."

So since NAFTA will remove most Mexican tariffs, now 2.5 times greater than the average of United States tariffs, and, in addition, reduce nontariff barriers, which now require United States companies to build factories in Mexico in order to sell in Mexico, the United States naturally will benefit greatly.

NAFTA will also do away with Mexican laws that require United States companies in Mexico to buy Mexican components instead of products made in the United States by our own United States workers.

Another argument is that NAFTA will allow non-North American countries to use Mexico as an export platform so that they can gain duty-free entry into the United States. The fact is that NAFTA contains strict comprehensive rules of origin requiring goods to be made in North America in order to receive favored treatment under NAFTA. Two hundred pages of this agreement describe this particular rules-of-origin requirement.

Another argument is that NAFTA will not protect workers and import-sensitive industries. That is not true either. NAFTA's strict rules of origin will prevent Mexico from being an export platform for other countries. Also, NAFTA does extend transition periods for U.S. tariffs and nontariff barriers to imports that will give import-sensitive industries and workers time to adjust to this more competitive environment. There are also specific measures which are designed to prevent import surges during the transition period. These would prevent pre-NAFTA tariffs coming back into place if import surges begin to harm U.S. industries and workers. NAFTA also will improve worker retraining and adjustment assistance programs.

Some argue that our trade surplus with Mexico is a mirage because 85 percent of our current exports to Mexico are capital goods which are used to build factories that will in turn saturate United States markets with their own products. That is pure bunk. Only 33 percent of our exports to Mexico are capital goods. This is a decrease from 40 percent in 1987. Comparing this to other countries, capital goods now comprise 40 percent of our exports to all other developing countries and 39 percent of our exports to the world. Therefore, this argument has no validity and makes no sense. Even so, exports of capital goods are beneficial to our economy because they support high-wage jobs.

Another argument is that our exports to Mexico are nonbeneficial to our own economy because they are components that are shipped back to the United States in finished product form. The argument is that Mexicans themselves do not buy United States consumer goods. Give me a break. Consumer goods are the fastest growing export to Mexico, having quadrupled from $1.1 billion in 1987 to $4.4 billion in 1992, a quadrupling in 5 years.

Eighty-three percent of the growth in United States exports to Mexico over the last 5 years has been for Mexican consumption, not for reexport. In Mexico, United States consumer goods exports have grown at a 31-percent annual rate over the last 5 years. Compare that to the rest of the world at 17 percent, Japan at 15 percent, the European Community at 16 percent; in other words, 70 cents out of every Mexican dollar to purchase imports are spent on United States consumer goods.

Another argument is that NAFTA will cost U.S. jobs because buy-American laws will be eliminated. That is a joke. We have more to gain by opening up Mexico's Government procurement under NAFTA because Mexico remains an economy with a higher proportion of State-owned businesses than our own country. Also, Mexican Government procurement practices are more restrictive than in our country.

Our unions argue that NAFTA will allow entry of workers to break strikes. Exactly the opposite is the case. Workers may be denied temporary entry into the United States where the entry might affect adversely, the settlement of any labor dispute that is in progress at the place or intended place of employment or the employment of any person who is involved in such dispute.

The opponents argue that economic studies are flawed because they assume full employment and unchanged investment patterns. These leading studies by the nonpartisan Institute for International Economics, and others, have considered changes in employment rates and investment patterns, and they have all concluded that the United States will increase its exports and gain jobs, even though studies relying on computerized general equilibrium models do assume full employment. Such studies predict wage rates will increase, and that indicates an increase in demands for U.S. workers.

Another argument is that NAFTA will override U.S. financial regulations which we need for security and stability of the banking system. In fact, NAFTA preserves our own U.S. financial regulations.

Another argument is that NAFTA will eliminate the Border Patrol, enabling the free flow of drugs. In fact, NAFTA will help us in our drug interdiction efforts because it will facilitate the level of cooperation between Mexican and United States law enforcement authorities which is already going on. I have been there, I have seen it, and I know it is going on. I want to keep it going, and NAFTA will do so. If we do not enact NAFTA, the relationship between our two countries will become so bad that there will be an impact on solid law enforcement practices.

Another argument is that Mexican truckers with inferior trucks, not meeting United States safety standards, will have a right to use our roads. Our safety standards are not undermined by the NAFTA treaty. In fact, within 3 years of this agreement, Mexican trucks and drivers will have to

meet all of our applicable standards on emissions, environmental pollution, safety inspections, maintenance, repair, brakes, securement of cargo, and driving preventions. Furthermore, Mexican trucks will not have full access to United States roads for at least 6 years.

The next argument against this agreement is that our consumer and environmental laws will be undermined. In fact, NAFTA specifically ratifies the right of each country, as well as all States and localities, to maintain their own level of health and consumer safety and environmental standards, and even to increase those standards.

Some argue that NAFTA will permit agricultural commodities with pesticide residues, such as DDT, to come into this country. Again, that is not true. The United States will be permitted to prohibit entry of goods not meeting its own health, safety, and environmental standards.

By the way, DDT is not permitted in farming practices in Mexico but is only used in southern Mexico to fight malaria-carrying mosquitoes. Our own General Accounting Office study shows that Mexico's overall system of controlling pesticides is quite equivalent to that of the United States.

Some argue that United States companies will try to avoid strict environmental regulations by investing in Mexico. Again, NAFTA requires each country to agree they will not use weakened enforcement of environmental laws to attract investment from other countries. Mexico already has environmental protection laws which are comparable to our own.

Others argue that the NAFTA agreement will result in harm to our North American environment. In fact, NAFTA has specific measures for the improvement of environmental protection and commits each country to the principle of sustainable development. Some say that NAFTA will overturn our own environmental laws. That just simply is not the case.

The labor side agreement restricts the application of trade sanctions to only 3 rather than the 11 areas sought by the unions in our country. The three areas that qualify for sanctions are workplace health and safety, minimum wage, and child labor.

To resolve any settlement disputes, a dispute settlement panel will arbitrate charges of violations in those three areas. If adverse findings occur, they could result in fines or sanctions if the country refuses to pay. For Mexico and the United States, sanctions could be imposed. However, for Canada, which refuses sanctions, payment of fines will be enforced through the Canadian domestic court system.

Now, Mr. President, we cannot impose all of our labor laws on Mexico. This is a country that is emerging as one of the great countries in the world. They should be able to determine their own laws. But we are imposing three of the most important areas, and they have agreed to the imposition. I have heard some argue that we ought to impose a lot more. The fact is we cannot be telling our neighbors to the south what they can and cannot do. What we can do is encourage them and that is what this side agreement does.

The environmental side accord excludes any domestic law with a primary purpose of managing the use of natural resources as opposed to protecting wildlife and stopping pollution.

The United States and Canada have used the definitions crafted by Mexico and cover domestic measures that prevent pollution, control hazardous materials, and protect flora and fauna. The public will not be able to file grievances. No government will be able to challenge NAFTA provisions managing commercial harvest or exportation of natural resources. There will be a North American Commission on the Environment called NACE. And the final text will allow a respondent government to request NACE to limit the scope of the demand for information on grounds that the request would be damaging to protected business interests or personal privacy.

The text also restricts NACE's access to national facilities or data. I strongly oppose NACE's visits to U.S. companies to collect data. If the data were refused, NACE, using the domestic process, could have ultimately resorted to an administrative subpoena to get information. As it is, NACE panels can claim violations only where "a persistent pattern or failure to effectively enforce" a domestic law by a member Government occurs. Unmet fines can lead to trade sanctions for Mexico and the United States only. Fine payments can be enforced for Canada in domestic courts.

Currently, the environmental community is generally opposed to some of that and has I think effectuated some changes that have worked.

Mr. President, in conclusion I just want to say that if you look at this trade agreement from a hemispheric relations standpoint, if you look at it from a neighbor-to-the-south standpoint, if you look at it from a business standpoint, if you look at it from an export standpoint, if you look at it from an interdiction of drugs standpoint, and if you look at it from a deterrent to illegal immigration standpoint, then I have to tell you that you really have to decide that this agreement is the right way to go.

I have said enough about it. I have taken enough time. But I especially wanted to make these points because I am the chairman of the Republican Senatorial Hispanic Task Force. I, frankly, feel very deeply about these matters. I would like to see us have better relations with our neighbors to the south. I respect President Salinas very much. I have visited Mexico almost every year for 5 years. Each time, the complete cabinet has made itself available. The President has met with me every time. And I have to say he has provided enlightened leadership that is pulling Mexico out of its difficulties, and bringing intellectual reform, patent reform, even electoral reform to that country.

I just want to see all of these reforms continue because they are progressive, they are the right way to go, and frankly, they are in the best interests of the United States as well.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I see the Senator from Utah in the Chamber. I wonder if the Senator might withhold for just a minute.

Mr. President, there are some opponents of NAFTA who say "not this NAFTA," but a better NAFTA. And when they say a better NAFTA, they often point toward the Common Market. It is true that Europe admitted Spain and Portugal and Greece to the Common Market. They expanded significant transfer payments to help their economies, to raise the economies of those countries to a higher level than they would be otherwise.

Now, we are supposed to, therefore, conclude that we Americans should not conclude an agreement with Mexico until America spends tens of billions of dollars to help bring Mexico up to higher living standards.

Mr. President, in this time of big budget deficits, with the large national debt we have, I do not think the American people want that. We have a large national debt, a large deficit. We are operating under a very significant budget agreement which freezes discretionary spending, which means with inflation in effect it decreased in those accounts. I do not think we are at a time in American history where we can begin to think about transferring billions, maybe tens of billions, of dollars to Mexico, as aid.

But even more importantly, the Common Market, or European Community, is much different than North America.

Why do I say that? Look at the historic pressures in Europe to help bring Europe closer together. Mr. Monet, who is the father of the Common Market, nearly 40 years ago spoke of European unity. That was an idea that caught on. There is a common heritage to some degree in Europe; there is more of a unity and a sense of togetherness in that continent than there is in ours.

Therefore, those countries began to enact uniform or very similar laws.

One is their taxation law. Members of the Common Market have a value-added tax. There is not the same exact value-added tax in each country, but the same system. How many Americans want to have the same taxation system with Mexico and with Canada? I do not think very many do.

How many want a value-added tax? No, we do not have to have a value-added tax. I do not think many Americans want that.

In addition, in Europe, there is complete freedom of mobility of labor, which means that a Spaniard can get on a train in Madrid, ride that train across the border to France, to Germany, get off the train, and apply for a job in any plant—no green cards, no visas, no work permits, apply for a job. There is a complete freedom of mobility of labor. I do not think many Americans want that.

NAFTA is not that. NAFTA just says we are reducing some trade barriers. We are not saying that any Mexican worker, any Canadian worker without a visa, without a green card, without a work permit, can just willy-nilly cross the border and apply for a job. That is not what we are saying.

Almost all who say "not this NAFTA" and point to Europe, frankly, are suggesting something they would not want to pursue if they thought it through.

So I think it is important for people to realize that the United States is nowhere near adopting a policy that would create complete freedom of mobility of labor, a uniform tax system, or that would transfer tens of billions of dollars to another country. It is just not going to happen, and it should not happen, at least for the foreseeable future.

Maybe 50 years from now, it might make sense. We are talking about the 1990's into the next century. It is not going to happen.

Mr. President, opponents remark that Mexico is a poor country that has squalid conditions—I must say, using terms which I find not entirely diplomatic—that there is no way for Mexico to come back to the bargaining table and concede a lot more. It is just not going to happen. Rather, if we reject NAFTA, I think the probabilities are very high that Mexico is going to go somewhere else. They will look to another trading partner. They will feel they cannot trust Americans very much.

The fact is, we have already asked for more in this process. President Clinton said, "I do not like this agreement." The President pushed for side agreements on environment and labor. The Mexicans said OK. They came back to the table, and negotiated the side agreements on environment and also on labor.

So I think it is highly unlikely they will come to the table another time if we reject it. It is not going to happen.

The real choice is whether we accept NAFTA, a good-faith agreement with very intense negotiations on all sides—United States, Canada, and Mexico. Ambassador Mickey Kantor negotiated very aggressively. And many of us know Carla Hills, the previous USTR who negotiated the main agreement. We all know that Ambassador Hills is equally aggressive, equally tenacious, and will get the best deal for the United States.

We negotiated a good deal. If you look at the facts, the facts are very clear. This agreement tends to address the problems we have with Mexico. For example, under NAFTA there will be a lot of incentives for wages to increase faster in Mexico than there would be the case if there is no NAFTA. This means it is less likely under NAFTA that companies will move to Mexico.

I admit this is not a perfect agreement. But it is a good agreement. It does not do everything that some of us would want on environment, labor, and other provisions. But it is a lot better than the status quo. In trade negotiations, Mr. President, and in legislation, you take things a step at a time. You can never achieve perfection immediately, if at all. You have to steadily grow, steadily progress, build a step at a time.

This is obviously an agreement which progresses the ball further.

I was very struck, Mr. President, by a statement earlier this evening by the Senator from Illinois [Mr. SIMON]. Senator SIMON said that early on in the NAFTA process he had no idea what to do, whether to vote for NAFTA or against it. So what did he do? He went home one weekend, took a stack of documents on this question, sat down at his typewriter and just typed through the pros and cons of ratifying NAFTA.

He said after a weekend of doing so, it was clear. He said it is one of the easiest decisions he has ever made. The facts were undeniably clear that it makes more sense to pass NAFTA than reject it.

I think all of us who know Senator SIMON know that he is very intelligent, one of the most intelligent Members of this body, one of the most conscientious Members of this body, and has an open mind about matters. And I think if Senator SIMON took the time to read so much of the agreement and came to that conclusion, we should listen to him.

I thank the Senator from Utah for yielding this time to me. I wanted to make these points before the Senator from Utah makes his statement.

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, thank you. I wanted to say while my Senator senior colleague from Utah is here that I listened to his comments with great interest, and he has made the substantive argument for NAFTA.

I just have a few additional comments. I want to indicate my gratitude to him for the thoroughness with which he has gone through all of this work. He has frankly saved me the effort to have to do it over again.

I rise to make several points in this debate. The first one is perhaps a comment, a holdover, if you will, from the debate in the House of Representatives.

A Member of the Congress, a Member of the House, told me the same story that we heard from the distinguished Senator from Montana about our colleague, Mr. SIMON, slightly different, but the same result.

There was a Congressman who had decided to vote against NAFTA and had announced that decision fairly early on. Within the last 10 days, he has changed his mind, and last night he voted in favor of NAFTA. When queried as to why he was to change his mind, he said everyone who has been to see me in opposition to NAFTA has threatened me. They have not concentrated on the arguments. They have concentrated on the threats of what will happen to me if I do not join with them in opposing this.

By contrast, everyone who has been to see me in support of NAFTA has said to me, "Congressman, we respect your judgment, we respect your ability to make a judgment, we simply want to lay before you the facts and we will trust your decision, and we will still be your friends when this is over if you make a decision different than the one we are asking for. We have that kind of respect for your analytical ability."

He said "I do not legislate under threats. I legislate on the basis of merits."

And on that basis he came to the conclusion that NAFTA should be supported. I think that is an interesting commentary today when the news is filled with comments by some of those who were opposing NAFTA, that they will respond by punishing the people who supported NAFTA at the polls.

I have had some of those same threats levied at me. There have been people who picketed my office in Salt Lake City and said, "We will see to it that you are defeated next time you run."

Well, Mr. President, the last time I ran, I ran in support of NAFTA. I campaigned as one who would vote for NAFTA. I made my intentions very clear right from the beginning. And I do not, in the face of threats, intend to change that position.

Moving to a more substantive matter, as I said, I will not go into all of the details. My senior colleague from Utah, Mr. HATCH, has already done that, I think very well and very extensively.

But I want to make a point about the nature of this situation. NAFTA, if you will, is a tax cut. It may, in some ways, be the only tax cut we are going to get out of this administration, if I may say so, as a member of this side of the aisle. If there is a transaction between Smith and Jones, Smith has $1,000 of money and Jones has a basket of goods that he prices at $1,000, and they trade back and forth in that fashion, that is free trade.

However, if Smith says, "I have 1,000 dollars' worth of money, give me your basket of goods," and the government steps in and says, "No, Mr. Smith, we are going to take $100 of your thousand dollars in taxes," Jones can now only get $900 for his goods. So Jones will change the nature of that basket of goods. He will either take some out, or he will substitute some goods of lesser value for those that are there—different quantity or different quality.

Now, if it is not between Smith and Jones, but between Smith and Sanchez over the border, that is exactly what is happening now, only instead of calling it a tax, we call it a tariff, but the result is exactly the same. So Mr. Sanchez, who wants to buy something from Mr. Smith, is told, "You may have $1,000 to spend but you are only going to get $900 worth of goods because the Government is going to take $100 off of the top."

Now, with the NAFTA, we are going to say the Government gets out of that transaction and the basket of goods being offered in the United States is therefore going to change. Either there is going to be more quantity in it to pick up that extra $100, or there is going to be more quality in it because Sanchez can now afford to pay more. And in the process of that change in the basket of goods, there is no question we are going to see a change in the kinds of jobs producing that basket of goods. I do not think there will be any job loss to Mexico because of companies moving down there, because they can do that now. But there will be a job shift, as some of the lower paying jobs will perhaps go out of existence because Sanchez is now getting $1,000 for his $1,000 instead of $900. But there will be jobs created. As people say now, we can put different products into that basket of goods, and the kinds of jobs that are likely to be created—being very blunt about it—are the kinds of jobs that do not lend themselves to union organization.

At base, I think this is the reason why the labor unions have been opposing NAFTA. They realize that the kinds of jobs that are easy for them to organize are probably going to go down, while the kinds of jobs filled by people who do not lend themselves to organized labor are going to go up. Net economic activity is going to go up. There will be more money spent in the United States as a result of this. There will be more economic benefit. But there will be a shift. There always is when there is a tax cut; the economy always changes.

So, Mr. President, I think we must recognize that the NAFTA will produce changes in our economy. I think they are changes that will be beneficial, because I would like to see the work force move from the lower paying jobs to the higher paying jobs. But there is no question that any kind of change is going to be painful for somebody. The question is: Do we want to stagnate in the present status quo because we do not want to cause anybody any kind of pain and thereby bring pain overall to everybody? Or do we want to move ahead with a dynamic economy and recognize that this is the price of progress? But the benefit of progress is a greater benefit for everybody in the long term.

The final observation I will make, Mr. President, is that, in my opinion, NAFTA really is not about trade. NAFTA is really not about Mexico. If it were just about trade and if it were just about Mexico, then those who say to us "not this NAFTA, let us get another one" might have a point. We might be able to negotiate a better trade circumstance in a vacuum. We might be able to have a better impact on Mexico in a vacuum.

But we do not live in a vacuum. In the world today, NAFTA has become—in addition to a trade agreement, in addition to a discussion about Mexico—a major symbol of America's willingness to confront the future. We are in a postwar world. Like every other war we have ever fought, we made no planning, no contingency for what would happen when the war would end. But the war has ended. We are in a new world now. The new form of competition is no longer military, it is economic.

The people in the southern half of this hemisphere where we live are looking to the United States to say: How will you behave in the postwar world? How will you behave in a new arena where the principal competition is economic? Will you begin to treat us as equals—maybe not equals monetarily, maybe not equals in productive ability, but equals nonetheless as players in the international game? Will you treat those of us who live to the south of the United States in this hemisphere with the same consideration that you have treated those who live to the north of the United States in this hemisphere, those whose skin color is the same as yours, those whose European ancestry seems to be the same as yours? You have been able to negotiate a treaty with the Canadians without all of this fuss. Can you now negotiate the same kind of treaty with those who live to the south as you have with those who live to the north?

I think it is a crossroads for the United States to say that we can play on the world stage with even handedness toward all nations. We can deal with those who live to the south of the United States with the same degree of honesty and integrity as with those in the north of the United States. That, in my opinion, is the overriding reason why NAFTA is crucial to us at this point, and why this NAFTA—not another NAFTA—is the one we must ratify at this point.

So, Mr. President, to summarize, like my friend in the House of Representatives, I do not legislate by threat. I legislate on the merits, and I am sure most of the Members of this body feel the same way. I am therefore unimpressed with those who threaten me that I might be defeated as the sole reason for me to vote against NAFTA. It is a good agreement. It will be good economically for the United States and for Mexico for the reasons I have outlined. But perhaps, most importantly, it is a symbol to the world of the fact that the United States is facing reality in the new economic era that we have entered in the postwar world, and it is an opportunity for us to step ahead in a way that we must not turn our back on.

For these reasons, Mr. President, I support and will vote for the North American Free-Trade Agreement.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Rhode Island will take, which I assume will be taken off of the time of the Senator from Oregon.

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

Mr. CHAFEE. I thank the floor manager for that. I would appreciate it if the Chair will let me know at the end of 20 minutes.

Mr. President, many of our colleagues and my colleagues from Utah have spoken on this subject. They have pointed out the facts about what NAFTA is and what it will do. What it will do, Mr. President, is to eliminate tariffs and other trade barriers between the United States and Mexico and to some degree Canada, although that has been covered in the prior 1988 free-trade agreement with Canada. This will take place over a 15-year period. Most of these reductions will be undertaken by Mexico, since it is Mexico that imposes significant taxes or tariffs on our products at the border and maintains other barriers to our ability to sell to Mexico.

Thus, Mr. President, the NAFTA will level the playing field by taking down Mexican tariffs and other barriers to United States goods. It is that simple.

Mr. President, I want to take a couple of minutes to discuss what NAFTA and its enactment will mean to my State in New England, the State of Rhode Island. Our State has had a lot of economic difficulties over the past several years, and, indeed, currently our unemployment rate is greater than

the national average; 8 percent of our work force is unemployed. The brightest spot in our economy is the phenomenal growth of exports. In the past 5 years, our exports have doubled from our little State. For the first time ever, Rhode Island has crossed the $1 billion mark in exports. We are outpacing our neighbors in New England in the growth of exports and indeed outpacing the growth rate in the United States as a whole.

This has been a spectacular surge in exports for us. And this growth has come about because our companies are finding demand for their products in the burgeoning markets of Mexico. I saw this when I visited Mexico last February. Mexican consumers are hungry for United States products and that includes Rhode Island-made goods.

Rhode Island has shared in the national export boom to Mexico. Our State's exports to Mexico have jumped by 182 percent since 1987, a rate of growth almost 90 percent faster than the export growth to the rest of the world. Mexico now ranks as our 7th ranking trading partner, up from 11th ranking just 5 years ago.

This kind of growth obviously means jobs. Indeed, many of our Rhode Island companies will tell you that if they had not started exporting to Mexico they would not have been able to maintain their current work force during this recession, or indeed to add to jobs that they did. Thanks to our exports to Mexico, there are now several thousand Rhode Islanders who have jobs—good well-paying jobs, since virtually all of our exports to Mexico are manufactured goods.

Rhode Island workers have done well from the economic changes wrought by the Salinas administration. But, as a Commerce Department 1993 foreign trade barrier report noted, significant barriers to our exports to Mexico still remain.

Moreover, the Salinas reforms easily can be undone by his successors—and indeed this is not uncommon in the history of Mexico. That is why NAFTA is so important. It not only will remove the remaining costly barriers to our exports, but will lock in all those changes, regardless of who succeeds President Salinas. This means that U.S. firms, and of particular interest to me, Rhode Island firms can count on access to an open, stable, and long-term market.

(Mr. FEINGOLD assumed the chair.)

Mr. CHAFEE. Mr. President, I would like to note that our State has many, many jobs involved with the jewelry industry. Indeed, that is the largest manufacturing employer in our State, with some 35,000 jobs. NAFTA will eliminate the 13- to 20-percent tariff rates currently levied on Rhode Island costume jewelry products going into Mexico. The Manufacturing Jewelers and Silversmiths of America, which represents 600 Rhode Island jewelry companies, says NAFTA will result in the creation of 300 to 500 new jewelry manufacturing and service jobs in our State. You might say, who cares about 300 to 500 jobs? But that is a lot of jobs for a little State like ours.

Our second largest manufacturing employer is the textile industry, employing some 7,800 Rhode Islanders. NAFTA encourages the sale of American made textiles, thanks to its strict rules of origin. The Northern Textile Association, which represents New England textiles, says that NAFTA will result in increased jobs for the domestic textile industry. Indeed, our textile manufacturers have come forward and echoed that. Firms like R.I. Textile Co. and Bradford Dyeing in our State have said that the North American Free-Trade Agreement will mean more jobs for those companies and others in the industry.

NAFTA will grant our financial services companies access to the Mexican market. We have a very large financial service industry in our State. Fleet Bank is the 14th largest bank in the Nation. Hospital Trust also is a sizable banking company. Together, they employ thousands of Rhode Islanders. They expect unprecedented access to the growing Mexican market.

Rhode Island's Byrant College has a well-known export assistance center. The director of this center noted recently that Rhode Island has "doubled its exports in the last 5 years, from $500 million to $1 billion." He went on to say that:

> Our goal, and expectation, is that we will double exports once again, to $2 billion, by the year 2000. $2 billion in exports will mean 20,000 new Rhode Island jobs—in other words, exports will be by far the biggest job creator in the State in the next decade. But if a No-NAFTA vote prevails, the trend in our increasing State exports could be reversed. The impact will be dramatic—and potentially disastrous—for economic growth in Rhode Island. That is a scary thought for Rhode Island workers.

And the director of the export center closed by saying, "We need NAFTA" in our State.

Now, Mr. President, let me take a moment to address the subject of the environment and NAFTA. I would like to set a few facts straight about NAFTA, Mexico, and the environment.

Far, far too much of this aspect of the debate has focused not on facts, but on fears. Not only is NAFTA not the environmental villain that some have made it out to be, but it is, in fact, an environmental helpmate, and one that has the potential to lay the groundwork for environment-friendly trade agreements in the future. All environmentalists should support this agreement.

I feel very strongly about the environment, and indeed that is one of the reasons I went down to Mexico last February to see for myself not only what is happening to the environment but what the potential is to do something about it.

It seems to me we ought to remember that Mexico is a developing country. To their credit, Mexican leaders are attempting, through NAFTA, to bring their nation into developed-nation status. They are experiencing economic growth and at the same time learning about environmental protection. This is a difficult combination. Indeed, it is one we wrestle with in our own Nation: How are we going to bring about at the same time preservation of the environment and economic development? That is something that Mexico now is facing likewise.

Mr. President, I would like to make this point. Many continuously deplore the fact that Mexico does not have the environmental enforcement that we have in our Nation and does not have the breadth of environment protection that we have. Just remember this: It was only in the past 20 years that every single one of our major environmental laws have come into effect in this Nation. Whether you are talking about the Clean Water Act or the Clean Air Act, whether you are talking about the Endangered Species Act, or whether you are talking about the Safe Drinking Water Act, every single one of those laws came into existence in this Nation of ours in the past 20 years. Twenty years ago there was not a single one of these laws on our books. This is despite the fact that our Nation has been a developed nation for as long as the word "developed" nation has been used.

So to those who carp and criticize Mexico, saying that you do not have clean air laws and enforcement that matches ours; you do not have a clean water act that matches ours; where is your endangered species act; I would say this: All of these will come about. But to expect that nation, a developing nation, to have what it took us decades to achieve is nonsense.

So, Mr. President, let us recognize that the best way to improve the environment in Mexico is to make Mexico more prosperous. Nobody expects Bangladesh to do anything about the environment. They cannot afford it. Poor nations do not take care of their environment. It is nations that are prospering and growing more prosperous that turn to their environmental problems and try to do something about it.

Economic growth and environmentalism can be partners. That is why practically every major environmental organization in the United States of America is supporting the NAFTA, the North American Free-Trade Agreement. Jay Hair, president of the National Wildlife Federation, put it best when he said in his 1991 editorial "Nature Can Live With Free Trade" the following: "[the] presumption that environmentalism and economics don't mix has been punctured."

Simply put, the best way for a nation to handle environmental challenges is for it to become wealthier and thus better positioned to attack environmental problems. This is not a theory that I created out of thin air. The direct relationship between increasing national income and decreasing levels of pollution has been proven by World Bank economists. Moreover, a prosperous nation finds greater popular support for environmental measures: Generally, as the prosperity of the citizenry rises, so does interest in a cleaner environment.

Thus, by raising Mexican wealth, the NAFTA will help Mexico join the world of developed nations and will encourage and enhance Mexican environmental protection.

I am at a loss when some of my colleagues present arguments that somehow the developing nation of Mexico may not join in free trade with the United States until it has cleaned up its environmental act. But how on Earth do we expect Mexico to have the wherewithal to clean up unless we help them, not through foreign aid, but through a chance to engage in trade with us?

Notwithstanding Mexico's current status as a developing nation, by any standard, Mexico has made phenomenal strides regarding the environment. In Mexico City $4.6 billion has been dedicated to environmental initiatives, including a 1-day-per-week ban on driving, and the introduction of unleaded and oxygenated gasoline. You might say unleaded gasoline; so what, we have had that for years here. We have, but certainly Europe has not. Europe, although it is thoroughly developed, is just now going to unleaded gasoline.

They have mandatory biannual vehicle emissions tests inspections. I have seen it. And by the way, as Yogi Berra said, "You can see a lot by looking." I encourage all my friends to go down to Mexico to take a look and see what they are doing.

They have closed down heavy industrial polluters. In Mexico City, they closed down the giant polluting PEMEX refinery. You would not see that take place in our country. No, there would be court appeals, and on and on it would go.

They have massive planting of pine and cedar trees to increase the oxygen.

At the border, $460 million has been committed to border cleanup projects. Mexico is working with the United States on enforcement.

They have taken numerous steps with regard to species conservation. Last June, at a ceremony attended by Interior Secretary Babbitt, President Salinas announced the creation of the Sonora Biosphere Reserve, which will provide protection for the endangered vaquita dolphin.

These and many other steps taken by the 5-year-old Salinas government reflect an environmental commitment that is steadfast and growing stronger.

Now there are NAFTA critics who dismiss President Salinas' initiatives, saying that they are window dressing. Somehow, if you take a step forward, it is called window dressing. But to thoughtful observers, this criticism rings hollow. Today's Mexico environmental investment totals nearly 1 percent of its GDP—hardly a faltering commitment. President Salinas has received international environmental awards: The 1991 Earth Prize and the 1992 World Conservation Leadership Award.

Perhaps most importantly, this criticism seems to ignore Mexico's growing domestic interest in the environment by the voting population. The Mexican green party won an unprecedented 5 percent of the vote in Mexico City's popular vote. You say, "Oh, 5 percent." I will tell you, 5 percent is a swing number. When 5 percent come out and say that is what we want, that is a growing popular party. It is the green party, which was never really heard from before in Mexico.

The NAFTA reflects the commitment Mexico has made to the environment. It is unlike any other trade agreement in its provisions to promote and protect the environment. NAFTA will enhance North American environment—including our environment. Without NAFTA, as Governor Ann Richards of Texas said recently before the Environment Committee, the United States-Mexican environmental problems that exist along the border in the Rio Grande and elsewhere, will fade from the radar screen. No one will pay any attention to them if NAFTA is defeated. It will no longer be a burning issue before this Congress of ours.

Mr. President, I would like to conclude with the following thought. At various times in our history, there is a conflux of events—a gathering of forces that become historic far beyond the original purposes envisioned.

Think just a moment about Gettysburg in 1863. No great battle was planned to be at Gettysburg. It was not a place where Lee's army and Meade's army were to meet. Lee's Army was headed north toward Harrisburg. Meade's army was trying to keep Lee from Washington. They were not destined to meet.

But, by chance, a foray by southerners into Gettysburg for shoes and a chance encounter there with Union forces escalated into the decisive battle of the war.

To some degree, that is the situation now with NAFTA. The agreement will not mean a rush of jobs to Mexico. Everybody knows that. Any firm can go to Mexico now that wishes to.

It will open job opportunities to U.S. manufacturers, trucking companies, bankers, and merchants. It is not going to solve all our economic problems. It will help.

But the historic conflux of events have raised approval of NAFTA to a level far beyond the modest number of jobs that are going to be affected by this agreement.

Quite literally, in my judgment, Mr. President, the future of open trading throughout the world hinges on what we do about this modest treaty. If we in the United States cannot even approve this small step, "Why," say the Europeans, "should we take the giant steps that you want us to take in the General Agreement on Tariffs and Trade?"

Our country, at the end of World War II, was blessed by leaders who had vision. That vision gave us a safer and a more prosperous world that we have enjoyed ever since 1945. Those leaders with vision came up with NATO, they came up with the World Bank, they came up with the Kennedy round in world trade.

The question now before us is: Are we willing to look ahead and provide a better world for our children, or are we going to retreat to the Island America?

Mr. President, I think the answer is an easy one. The answer is to look at what happened after the end of World War II, what those leaders did for us, what they provided for us and our children. I think it is time for us to step up to the plate likewise. I do hope that my colleagues will overwhelmingly approve this agreement.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the RECORD an important and thoughtful article by our esteemed chairman of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS, on foreign policy, entitled "Reform Mexico First."

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

REFORM MEXICO FIRST

(By Ernest F. Hollings)

The foundation of American foreign policy has been our steadfast commitment to freedom and democracy. With the fall of the Berlin Wall we should be doing everything in our power to nurture the development of genuinely democratic governments around the world. Yet supporters of the North American Free Trade Agreement (NAFTA) would lead us in the opposite direction. They ignore America's commitment to freedom and human rights by entering into a "free trade agreement" that will principally benefit Mexico's ruling oligarchy. For the past 64 years, that oligarchy has systematically denied Mexican citizens free elections, free speech, basic civil liberties, and a genuinely free market.

Instead of pursuing the previous administration's narrow economic agreement, President Bill Clinton should enunciate a broad vision for the Americas that encompasses not just economics and trade, but also political and social reform. As then deputy secretary of state Warren Christopher said more

than a decade ago, "Respect for human rights creates an atmosphere for stability in which business and investment can flourish." Now, as never before, the benefits of a truly free market will be enjoyed only when the market is buttressed by strong democratic institutions.

Previous American initiatives to boost democracy in Latin America fell short of their lofty goals. President Franklin Roosevelt's Good Neighbor Policy, President John Kennedy's Alliance for Progress, and President Ronald Reagan's Caribbean Basin Initiative all failed because our commitment to democratic and social reform never matched our rhetoric. Millions of dollars in aid money were squandered by corrupt regimes that were more interested in helping themselves than in raising living standards. For example, the United States embraced the Somoza oligarchy in Nicaragua and wound up with the evangelical Marxism of the Ortega brothers.

Today, we have a historic opportunity to foster democratic institutions and genuine economic development on our southern border. Our choice is clear: We can be a force for change to promote democracy and build a thriving middle class, or we can align ourselves with the ruling oligarchy that thwarts Mexicans' aspirations for representative democracy.

In some 2,000 pages of NAFTA's text, the word "democracy" does not appear. NAFTA only locks in Mexico's status quo. I propose an alternative approach that puts democracy first and rewards democratic progress with economic and trade privileges culminating in the creation of a Common Market for the Americas—a partnership whose membership is predicated upon a shared commitment to the basic principles of a democratic society: free elections, free speech, free press, and free markets.

Throughout Mexico's history, a number of leaders have promised to wipe out corruption and reform politics. Even Porfirio Diáz, Mexico's turn-of-the-century dictator, arranged electoral charades to create the illusion of democracy. While the current president, Carlos Salinas de Gortari, has instituted substantial reforms, he has been careful not to challenge the power structure.

Today, U.S. editorial writers hail Salinas and his American-educated technocrats as valiant reformers who have cleaned up a corrupt political system and overhauled an inefficient statist economic system. In truth, however, the "new" Mexico is strikingly like the old. Most of the political reforms undertaken by the Salinas administration are nothing more than window dressing designed to mollify NAFTA's U.S. critics. As the Salinas era ends, a careful examination of the record shows that actual political reforms have been modest and largely cosmetic. Human rights violations, electoral fraud, and corruption remain endemic. In the September/October 1993 Foreign Affairs, Professor Jorge Castañeda wrote:

"Mexico's underlying problems persist. It retains a largely corrupt and unchallenged state that possesses only the merest trappings of the rule of law. The enduring obstacles to Mexico's modernization—its repeated failure to transfer power democratically or to remedy the ancestral injustice of its society—remain and will require Mexico to continue to change itself, with or without a trade accord."

Even the Economist acknowledges, "The ugly truth is that Mr. Salinas and his band of bright technocrats, adored though they are by the great and good on the international conference circuit, wield power courtesy of PRI [Institutional Revolutionary Party] fixers and worse in the countryside."

While former U.S. presidents and secretaries of state praise Mexico's reforms, the State Department's 1992 annual report on human rights paints a starkly different picture. It details the Mexican government's complicity in electoral fraud, torture, politically motivated murders, suppression of independent labor unions, and systematic control of the news media. "To maintain power, the PRI has relied on extensive public patronage, the use of government and party organizational resources, and, according to respected independent observers, electoral fraud," the State Department report said.

Mexico's "reforms" are nothing new. Our neighbor has a long history of passing progressive legislation on labor and human rights and of signing international agreements that ostensibly guarantee those rights. Mexico also has a long history of failing to live up to such agreements.

In 1990, with great fanfare, Salinas presented a new Federal Code of Electoral Procedures and Institutions and established a Federal Electoral Institute. Those electoral reforms seemed dramatic. But in reality they are only designed to legitimize the status quo while creating a facade of fairness. The new Electoral Institute is not independent; instead, it is stacked with members of the ruling party. In addition, the final arbiter of elections is the minister of government—the Mexican official charged with maintaining domestic order. That position is currently held by Patrocinio González Garrido, former governor of the state of Chiapas. It is widely recognized that his term as governor was marked by widespread electoral fraud and the imprisonment of Indians, teachers, and Catholic priests who dared to challenge the ruling party.

Despite electoral reforms, Mexican elections continue to be exercises in deceit. As recently as 1992, gubernatorial elections in Michoacán were marked by widespread fraud and the PRI candidate was forced to step down, only to be replaced by another handpicked candidate.

This winter, the fraud will continue. Like the PRI's rulers before him, Salinas will engage in the Byzantine ritual of tapping his successor—a process appropriate for a Yale secret society, not a representative democracy. The state then will throw its tremendous financial and media resources behind the anointed successor, who, in all likelihood, will be another figurehead for Mexico's elite.

The State Department's human rights report notes that "several political and human rights activists were killed in 1992," and that "there continue to be cases of extrajudicial killing by police." Although Mexico has established an independent commission on human rights, the report states that many of its recommendations "have been implemented only partially."

According to the State report, other human rights abuses committed by the Mexican government include torture—"the most commonly used methods * * * include threats, beatings, asphyxiation, and electric shock"—and frequent "incidents of arbitrary arrest and imprisonment." In 1992, the United Nations Committee Against Torture strongly criticized Mexico's use of torture.

Mexico's ruling party also maintains power by tightly controlling access to the public news media. Until August 1993, one of Mexico's two principal television networks was owned by the government. The other network was safely controlled by one of the PRI's top fundraisers, Emilio Azcárraga Milmo. The Mexican government sold its network to Ricardo Salinas Pliego, who will continue its pro-government and pro-PRI slant. In fact, after gaining control of the network, Salinas Pliego frankly stated that he will have to continue its pro-government programming because Mexico is not yet ready for democracy. Although Mexico does have independent newspapers and magazines that give the appearance of a free press, the State Department reports "significant restrictions on these freedoms."

THE PERFECT DICTATORSHIP

Perhaps Peruvian writer Mario Vargas Llosa offered the best description of the Mexican political system: the "perfect dictatorship." Vargas Llosa said that it is "the permanence of a Party, not of a man, a Party that is unmovable, a Party that gives enough space to criticism, as long as it serves its interests, because in this way it shows that it is a democratic party; but suppresses by any means . . . the criticism that somehow endangers its permanence."

A fundamental question that has never been addressed is whether Mexico's tradition of authoritarian, one-party rule is compatible with the American form of democratic capitalism. Senate Finance Committee chairman Daniel Patrick Moynihan has succinctly framed the debate on NAFTA: "We are still being asked to approve a free trade agreement with a country that isn't free."

NAFTA's proponents argue that it will raise living standards and gradually harmonize wages and working conditions. Commentators are quick to praise the dramatic economic reforms that have transformed the Mexican economy. A recent column in Financial World proclaims:

"Over the past several years Salinas has moved with great domestic risk toward opening what once was one of the world's most protected, corrupt and government-controlled economies. Should NAFTA fail—or die a slow death at the U.S. equivocates—Salinas's efforts would be discredited and the old order could return."

The obvious flaw in that argument is that the old order has not been swept away; a tightly knit group still exercises political and economic power.

Augustin Legoretta, a prominent businessman and former president of Banamex (one of the leading banks in Mexico), provided this candid assessment of how the Mexican economy operates: A "very comfortable little group of 300 people make all the economically important decisions in Mexico." That comfortable group has acquiesced in the government's decision to tear down the "Gringo Go Home" sign and open their country to foreign investment by offering a low-wage, high-productivity platform for export into the United States. In return for supporting Salinas' economic reforms, Mexico's corporate elite have enjoyed a financial bonanza. Mexico's high-flying stock market, the Bolsa de Valores, has created paper millionaires and even billionaires. Before Salinas took office, Forbes listed one Mexican in its list of billionaires; five years later there are thirteen. Not surprisingly, the Salinas administration's ambitious privatization policy has rewarded many of the president's closest political associates: Carlos Slim Helu, a financier and PRI fundraiser who won control of the telephone company Telmex and one of the state-run banks; Pablo Bréner, another PRI fundraiser who was awarded Mexicana Airlines; and Jorge Larrea, a close friend who now owns the immense Cananea copper mine.

Questions have arisen over Mexico's privatization programs, including whether a truly competitive system of open bidding exists. In addition, U.S. companies are allowed to own only minority interests in those companies. Mexican NAFTA negotiators have been careful to protect the powerful interests that have benefited from the privatization. For example, if NAFTA passes, the Mexican conglomerate Vitro, a world-class maker of flat glass, would benefit from a 10-year phase-out of the tariff on flat glass while the U.S., as is the case now, would levy no tariff at all. Similarly, the recently privatized banking system will benefit from 10 years of protection, and U.S. banks will be strictly limited to a small percentage of the Mexican market. The PRI held an intimate—and expensive—dinner party for Mexico's top financiers, with guests pledging $25 million (more than 75 million pesos) each to the ruling party. Television baron Azcárraga even proclaimed that he would be willing to pledge three times that amount because he had prospered so handsomely under Salinas. While the proponents of NAFTA praise the "free market" reforms in Mexico, in reality Mexico pursues a development model that leaves very little to the magic of the marketplace.

As Business Week explained in a cover story:

"In their drive to modernize Mexico, Salinas and his planners command nearly every variable of the economy. To smother inflation and preserve Mexico's huge labor cost gap with U.S. and other producers, Salinas fixes salaries through a complex business labor agreement that's known as el pacto. He anoints—and boots out—labor union bosses and state governors alike. . . . In short, Salinas and his number-crunchers run a near-command economy, much closer to the Asian model than any country in the West."

Despite the international accolades, Mexico's growth has averaged only 2.8 percent for the past six years. During the dark days of import substitution, Mexico's gross domestic product (GDP) grew by more than 6 percent. However, much of the current growth is the result of flight capital drawn back by high interest rates.

The "elite 300" have reaped huge rewards from privatization. Unfortunately, much of their wealth has come at the expense of the Mexican worker. The World Bank noted that Mexico's 1992 per capita GDP was 5 percent below the 1980 level. Mexican workers' wages buy less than half of what they did in the early 1980s. In a country that already suffers from one of the worst income distributions in the Western Hemisphere, Mexico's development path has exacerbated the gap between rich and poor. Over the last decade, the richest 10 percent of the population saw its share of the national wealth increase by 15 percent; meanwhile, 25 percent of Mexico's tiny middle class fell into the ranks of the poor. Half of the people still lack electricity or running water; the state of Yucatan advertises labor for "under $1 an hour, including benefits"; and children as young as 12 are included in official Mexican labor statistics.

CHEAP LABOR

To provide foreign investors with a pliant work force, the government has actively intervened to thwart the formation of independent trade unions. After a renegade labor leader led a successful strike at a maquiladora plant near the U.S.-Mexican border, the Mexican government promptly arrested him. When workers at a Ford plant sought to replace their local's leadership, gunmen from the national labor federation attacked strikers, killing one and wounding thirty. Smashing independent unions and freezing wages at Third World levels is not consistent with the stated goals of the economic opening, which in theory raises living standards. As Business Week noted, the irony of the Salinas era is that "many Mexican workers still can't afford to buy the products that they turn out."

Advocates of NAFTA believe the agreement will not spur the flight of jobs south of the border. They argue that NAFTA would boost U.S. exports to Mexico and thereby increase jobs in the United States. To support that claim, they point to our trade surplus with Mexico. Since Mexico opened its economy to U.S. exports, the American trade deficit has been replaced by a $5.4 billion surplus. Under Salinas, Mexico's trade picture has significantly deteriorated. In 1993, Mexico's overall trade deficit will balloon to an estimated $22 billion. Consumer demand, however, accounts for only a small portion of our trade with Mexico. According to Mexican trade statistics, 52 percent of U.S. exports never enter the Mexican market. Unlike U.S. figures, Mexican statistics include parts destined for "free trade zones" in Mexico's interior. They are simply parts shipped to gleaming U.S.-owned factories for assembly and reshipment to the United States.

This is how the Brookings Institution's Nora Lustig explains Mexico's current account deficit:

"The upsurge in imports is in part a response to the expansion of productive capacity in anticipation of Mexico's positive outlook. . . . The current large imbalance in the trade account may well be a one-time phenomenon in the sense that it is the result of the modernization of the productive plant that will soon render its fruits in the form of higher net exports."

U.S. trade data shows that the majority of U.S. exports fall into two categories: capital goods and industrial supplies. U.S. Trade Representative Mickey Kantor points with pride to the fact that the fastest growing segment of U.S. exports to Mexico is consumer goods. A close examination shows that they are growing from a small base and still account for a smaller overall percentage of exports to Mexico than industrial goods. With an average per capita income of about $3,000—5 percent below Mexico's 1980 level—and one of the Western Hemisphere's worst income distributions, Mexico may need decades to become a significant market for consumer goods.

The much-ballyhooed "giant sucking sound" of American jobs going to Mexico because of NAFTA will be heard loud and clear in another incarnation. NAFTA will suck foreign companies into Mexico so they can win cheap, duty-free entry into the U.S. market. For years, Asian investors, particularly Japanese burned by Mexico's debt crisis, have been reluctant to invest in Mexico without adequate protection. NAFTA will provide that protection, which is why Nikkei Weekly notes that the "Bank of Tokyo is Bullish" on Mexico. And that is why Volkswagen executives boast they will use Mexico as their launching pad into the U.S. market. But European and Japanese companies are not alone. The Korean government is providing tax incentives for companies that open plants in Mexico. Even China's communist government-owned textile company is opening a yarn-spinning operation in Mexico.

NAFTA supporters argue that our two economies are already being integrated. That is true, and it offers an unprecedented opportunity to encourage genuine political and economic reforms in Mexico. But NAFTA proponents have never advocated using the process to encourage fundamental change in Mexican society. Instead, the only type of transformation NAFTA is likely to cause is change for the worse. Hundreds of thousands of unemployed American workers have discovered that "highly skilled $18 an hour manufacturing jobs in the U.S. would be as vulnerable as less skilled $6 an hour occupations," as labor economist Harley Shaiken reported in a 1993 study.

Further, the administration and some members of Congress believe that tacking on hastily arranged side agreements on labor and the environment will correct an approach to hemispheric integration that would lock in Mexico's status as a low-wage export platform. But ill-conceived side agreements cannot rectify a pact based on a flawed premise. No side agreement can adequately redress the tremendous disparity between our economies. Nor will side agreements improve enforcement of labor laws or environmental regulations.

Mexico has adopted tough laws to protect labor and the environment, but its commitment to enforcement is inadequate. While the Mexican constitution provides impressive guarantees for independent labor unions, it is widely known that the PRI controls labor bosses. In addition, a 1992 U.S. General Accounting Office report found that none of the American-owned plants it surveyed in Mexico had prepared the environmental-impact appraisals required by Mexican law. The press has also documented the environmental disaster on the Mexican side of the border.

Finally, while NAFTA does not address immigration, the treaty's proponents proclaim that it will slow the wave of immigrants across the border. They argue that as new factories open in Mexico and jobs are created, immigration will ease because workers will choose to stay home. That prediction, however, is not borne out by recent history or demographics. The explosion of maquiladora plants along the Mexican border has only served as a training ground and springboard for Mexicans eager to flee squalor. Maquiladoras suffer tremendous turnover—at one maquiladora in 1988, workers typically stayed only six months before going back home or seeking higher wages in the United States. Moreover, Mexico's economy will have to grow more than 6 percent annually to accommodate the 1 million new workers that enter the work force each year and the hundreds of thousands of agricultural workers that will be displaced by the opening of Mexico's agricultural market. Since only rosy scenarios predict that the Mexican economy will grow by 6 percent a year, Mexico's surplus workers will likely head north.

If we rush to pass a NAFTA that sanctions a program of economic development based on the suppression of wages and living standards, we will be sowing seeds of discontent among the Mexican masses. Rather than building a stable economic partner, we will be creating conditions for civil unrest. Indeed, the classic prescription for such turmoil is an entrenched, aloof leadership that raises the expectations of its populace. When the expectations are not met, civil order breaks down.

As the PRI pursues a policy that beats down wages while demanding increases in productivity, the basic needs of the work force will go unfulfilled. Without democratic institutions to serve as a check against arbitrary power, Mexico will remain a haven for

the exploitation of labor and the environment.

Instead of rushing pell-mell to integrate an underdeveloped economy with a developed economy, the United States should follow the example set by the European Community. The Community's decision to integrate Greece, Spain, and Portugal followed several years of intense negotiations. As a precondition of admission to the Community, those countries had no adopt significant economic reforms. Indeed, the European Commissions' opinion on the application of Spain and Portugal states, "The principles of pluralist democracy and respect for human rights form part of the common heritage of the peoples of the States brought together in the European Communities and therefore constitute essential elements of memberships."

The integration of Portugal and Spain involved a significant transfer of resources from the Community's developed regions. After the accession of those two states, outlays from the European Regional Development Fund and the European Social Fund roughly doubled, exceeding $5.4 billion a year. That money was used to assist both regions and individuals across Europe who might be harmed by each stage of trade liberalization. Funds from those organizations also helped stimulate investment and the development of infrastructure in these countries. The United States should adopt a similar policy for Mexico.

A common market for the Americas would require the countries of North America to enter into a social compact to establish minimum standards for labor rights and environmental protection as well as to protect the individual liberties that are the foundation of a democracy. A common market for the Americas, with a common external tariff, could be an effective vehicle for competing with the emerging trade blocs in Europe and Asia.

Before admitting Mexico—and, later, countries in Central and Latin America—the gross disparity in income levels must be addressed. To narrow the development gap, a fund similar to the European Regional Development Fund and the European Social Fund should be established. The proceeds from it would be used to upgrade Mexico's antiquated infrastructure and to clean up the environmental mess along the border.

Other development projects could be financed by swapping existing Mexican debt for development bonds backed by U.S. Treasury notes. In addition, the United States should expand debt relief proposals. Latin America's crushing debt burden is still a significant impediment to sustainable and equitable growth. Previous attempts at debt relief for Mexico failed to make a significant dent. Even after implementation of the Brady Plan, about 23 percent of Mexico's expert revenues are devoted to internal and external debt service. Thus, revenue generated by Mexico's outward-looking economic policy is flowing out of the country rather than being used to raise living standards in Mexico.

The integration of countries with such disparate levels of development will also require close coordination of macroeconomic and investment policies. Finance ministers should establish investment guidelines to prevent the wholesale de-industrialization of the developed areas of the common market for the Americas. In addition, exchange rate policy should be coordinated to prevent competitive devaluations that would depress wages and destabilize current accounts.

Finally, entry into the common market must be predicated on the adoption of real democratic reforms that produce free and fair elections. Only after Mexico becomes a functioning democracy will the gap in income levels and wage rates narrow. Once that is accomplished, Mexico, the United States, and Canada should proceed with wholesale elimination of tariff and nontariff barriers.

More than 30 years ago, another young, vigorous president offered the Americas a vision of shared destiny, but one that addressed both economic and social-political change. John Kennedy wrote:

"No program which is restricted to the technicalities of economic development can fully answer the needs of the Americas. Only an approach to economic progress and social justice which is based on a wide acceptance of the fundamental ideals of political democracy and human dignity can hope to conquer the many ills of our hemisphere and respond fully to the aspirations of our people."

After decades of ignoring the calls for reform, the United States should now align itself with the forces of change and renew its common commitment to economic and social progress. If we do not promote real democratic change in Latin America and champion economic growth at home, the United States could realize Harvard economist Richard Freeman's fear: "to become a class society like those in Latin America." NAFTA will head us down that path.

Mr. MOYNIHAN. Mr. President, I now have the pleasure to yield 20 minutes to the learned and formidable Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey for 20 minutes.

Mr. LAUTENBERG. Mr. President, I thank my distinguished colleague and friend from New York, the chairman of the Finance Committee, with whom I find myself in total agreement this day.

Mr. President, I rise today to discuss the North American Free-Trade Agreement.

Yesterday the House approved NAFTA, and here in the Senate it looks like the trade agreement will also pass. But I believe that whatever the inevitable outcome, it is my obligation to take a position based on principle and to explain that position in detail.

After considerable analysis and review, I have decided to oppose this agreement.

Mr. President, I did not reach this decision easily. Indeed, I approached the debate inclined to support NAFTA. I have long believed that free trade—as long as it is fair trade—will benefit America.

I have seen the evidence in my own State: Exports to Mexico from New Jersey have increased by more than 150 percent over the past 5 years. I know those exports have produced jobs in a State that lost 325,000 jobs during the recession.

I am not a protectionist. I support the Uruguay round of the GATT talks and want them to succeed. Four years ago, I was an enthusiastic supporter of NAFTA's predecessor, the Canadian Free-Trade Agreement. I voted to extend the President's fast track authority to conduct trade negotiations. I believe that expansion of trade with Pacific rim countries, with their vast market potential and growing economies, is a goal toward which we should strive.

We cannot ignore a central fact of our economic life: Expansion of markets, under the right conditions, creates jobs in America. In fact, it is central to our future economic growth and prosperity. We live in a global economy and must expand markets to create jobs for our people. Growing ties with developing nations, and their increasing prosperity and democratization, also lead to greater stability and peace in the world and add to America's national security.

But, Mr. President, despite these views, I am troubled by the NAFTA. It is one of the most complex and perplexing issues I have faced as a Senator. Over the past months, I have talked with people from all walks of life and with very different perspectives. And, as the Congress has moved toward a final decision on NAFTA, the agreement has been linked by some to broader foreign policy concerns and trade issues.

The argument is that if we reject the NAFTA, we will do irreparable harm to our relations with Mexico and other Latin American nations and disrupt ongoing, though unrelated, trade negotiations.

So, Mr. President, the debate on the NAFTA has become a complex and multifaceted debate. It has moved beyond evaluating the economic impact of the agreement itself, to potentially broader implications for our foreign and trade policies. A whole slew of issues has emerged beyond the initial focus on job creation and job loss. I would like to address these issues.

First and foremost, NAFTA is a trade agreement. It was advanced as a means of creating jobs for our people. I started my analysis of NAFTA asking two specific questions: What do we get? And what is the price for that? I approached it simply as a matter of good business; of costs and benefits.

I learned the primacy of those two questions when I was in business. For 30 years before I came to the Senate, I ran a company. In business it's not enough to know the benefits of an action; you have to decide whether the benefits are worth the costs. So, I asked myself a simple question: from the economic perspective, what do we Americans get from the NAFTA?

Despite all the claims being made by both proponents and opponents the objective answer is this: Not that much.

That was the response of the Congressional Budget Office, which concluded that:

A thorough review of the myriad changes brought about by NAFTA, and of their interactions, leads to the single resounding conclusion that the net effect on the U.S. of NAFTA would be positive and very small.

It was also the answer of the General Accounting Office:

NAFTA would bring a small overall economic benefit to the U.S. economy.

Few economists disagree. NAFTA's effect on our GNP will be miniscule. Over the next several years, it will boost the GNP by less than one half of one percent. That's 0.005—three decimal places.

Or consider another critical measure: jobs. There have been a lot of predictions and a lot of studies, and in candid moments many economists will say that it's very difficult, if not impossible, to predict how many jobs will be lost or gained. But, after examining all of them, the best guess is that NAFTA will create fewer than 400,000 jobs while eliminating about 200,000 jobs stateside. The net result, nationwide, will be an increase in new jobs of less than 200,000 after 5 years.

Mr. President, 200,000 jobs are not insignificant, but they must be considered in context. That's less than half the amount employment increased nationwide last month, when we were still in the midst of a so-called jobless recovery.

That is what we get. Objectively. We get a modest, in fact almost marginal, increase of jobs under NAFTA, based on the predictions—not all that much.

Which leads to the next question: how much will we have to pay for the modest, marginal gains generated by the NAFTA?

My conclusion, ultimately: too much.

This agreement focuses on reducing tariffs and other alleged barriers to trade with Mexico. But those barriers do not prevent trade with Mexico now. We already enjoy a substantial level of trade; in fact Mexico is one of the few countries with whom we have a trade surplus. In reviewing the trade patterns between our two countries, and the agreement, it seems that the real barrier to trade is not tariffs.

While Mexico's tariffs on our goods are higher than United States tariffs on Mexican goods, that has not been the most significant barrier to trade. The most significant barrier to trade is Mexico itself.

The problem is Mexico's inability to buy enough of our products. Mexico's disparity in incomes and relatively small middle class translates into insufficient demand. While the Mexican middle class has grown under the reforms in the economy initiated by President Salinas, there are still impediments in Mexico that will retard growth in the standard of living for the vast majority of Mexicans. So, it is not only tariffs that restrict our ability to sell in Mexico. Mexico's inability to buy restricts expansion of exports there.

That is why, in the final analysis, NAFTA is designed to improve Mexico's economy and to increase its national wealth, so that Mexicans can buy more of our products.

Now, Mr. President, every agreement has to give some benefits to each side in the deal. That is the way things work. But in this case, the deal is being made by two countries with radically different social and political systems and economic energy. Before we benefit a little, Mexico has to benefit a whole lot.

Mexican manufacturing workers earn an average of a little more than $2 per hour, while our workers earn an average of $16 per hour. Their workers lack the right to strike and the right to organize independent trade unions. And, while these issues were subject to negotiations with respect to the labor side agreement, Mexico refused to be bound by requirements that would democratize the political process and accord workers rights that we take for granted in our country.

Wages paid to Mexican workers in the free trade zone that already exists between our two countries are significantly lower than Mexico's average overall manufacturing wage. The kind of environmental, consumer, safety and health regulations that we have established in America do not exist in the maquiladora zone.

In Mexico, the major trade union is aligned with the government and both often work to discourage free collective bargaining agreements or strikes. The New York Times carried a story last week that described armed police cooperating with Volkswagen to lockout 15,000 striking workers protesting a change in work rules negotiated by their union, but kept a secret from them until the contract was signed.

Poor Mexican labor-management relations do not bode well for an Agreement whose premise is that jobs created in Mexico will significantly raise the standard of living of Mexican workers. And, it is a legitimate source of concern for American workers, who believe that NAFTA will not substantially raise wages or improve working conditions in Mexico, but will, instead, put downward pressure on wages and working conditions in the United States.

It is analogous to some of the disparities we have in our own country, where varying State laws and regulations provide an incentive for manufacturers to relocate to regions of the country where wages are lower, regulations are less stringent, and the cost of doing business is less. My own State of New Jersey has suffered job losses due to these factors and there is an analogy here that is not unfounded.

Mexico's environmental conditions are wretched because environmental law enforcement is virtually nonexistent. There is little in the environmental side agreements that will raise Mexico's environmental regulations to the level of our own. The NAFTA does not equalize regulations; it just asserts that each of the three nations party to it enforce their own regulations. Beyond that, the enforcement mechanism is weak.

Only a government can bring action for lack of environmental enforcement under the agreement. If it does, it has a heavy burden of proof to even bring a challenge. And, once it is brought, the procedure laid out for arbitrating it and securing action is torturous and without real muscle.

At the heart of concern about NAFTA is the fact that the United States and Mexico have vastly different social, legal, and economic systems and that Mexico's political system provides only a very limited arena for Mexican citizens to improve their lot. President Salinas' party, the PRI, has held power in Mexico for over 60 years. Amnesty International has documented human rights abuses in Mexico, and punitive action has been taken against labor leaders trying to establish independent unions and others pressing for political reform.

In the last presidential election in 1988, the Mexican Government refused to permit monitoring of the electoral process and there were charges of massive fraud. Mexico's political system, though improved in recent years, is not truly democratic and falls far short of our own American standards of openness and representation, making it awfully hard for the majority of Mexicans to secure reforms through the political process.

So, legitimate questions arise: will improve working conditions create new markets for our goods? Or, instead, will it just put more pressure on U.S. wages and serve to undermine American safety, consumer, and environmental standards? Will it build jobs here, or provide a seductive environment of low wages, more pollution, and poor living conditions to tempt even the most fair minded companies?

That raises the question of a safety net for our displaced workers. Any time a job disappears, someone suffers—and that suffering ripples through the economy. It affects that worker's family—not to mention those who work in the stores, restaurants, and banks that rely on these workers wages for their own livelihood.

NAFTA undeniably will cost some workers their jobs—and the job losses will come when the economy in New Jersey and the Nation remains fragile.

And, exacerbating the problem, those jobs losses will affect the most vulnerable members of our economy.

The people who will lose their jobs are workers with the lowest incomes and the least-developed skills. The workers least able to survive even a brief period of unemployment. The

workers least able to find new jobs elsewhere.

If Government adopts policies that devastate a few in an effort to provide marginal benefits to many, we have to accept the obligation to offer the displaced security and hope for the future.

The best way to offer security and hope is through some kind of job creation or worker training program—a system that will soften the blow and equip those hurt with the skills and opportunity they need to obtain new jobs and compete in the economy. Without such a system, it is unjust to sacrifice these workers on the altar of free trade.

Do we have such a system? Well, we have proposals. We have promises. We have projections. But the fact is we do not have a system in place now.

The administration has proposed a $100 million training program specifically for workers displaced by NAFTA. In addition, the administration has announced that it will propose a comprehensive reemployment system to retrain and retool workers who lose their jobs for any reason. Those are proposals, and I believe the president means what he says.

But these are the facts. These programs will not be presented to the Congress until next year—after we have voted on NAFTA. And when they are presented, in these days of extraordinarily tight budgets, nobody knows whether the Congress will give its blessing to fund these programs. Many members who support NAFTA oppose job creation and worker retraining programs.

Mr. President, it is difficult for me to accept job loss in exchange for a retraining program I have not seen that is funded by dollars that do not yet exist.

Mr. President, I cannot go to a mill worker in Paterson or an apparel worker in Hudson County and say to them, "I'm going to do something that may cost you your job—but don't worry. Your child may have a better job in the years ahead. Or we may create some more jobs for Americans. You may not be the one to get one of those new jobs—but trust me. Sacrifice your job. It will be good for the country in the years ahead."

Not in this economy. Not in my State. Not now.

Mr. President, that leads logically to another issue that has not received the attention it deserves: the budgetary impact of NAFTA and its cost to the American taxpayer. There are expenditures intrinsic to enacting the implementing legislation itself, but even larger costs associated with the various side agreements and commitments that have been made since it was signed by President Bush last year.

At a time when we are cutting the bone and muscle from some Federal programs, and we cannot even pass an extension of unemployment benefits for our own unemployed workers due to a lack of identifiable funding, can we really afford these costs? Looked at in purely economic terms, if such expenditures are going to be made, could they be better applied in other ways to create jobs and stimulate our economy?

Funding of over $100 million has been proposed for retraining for workers who lose their jobs as a result of NAFTA. There is also the almost $3 billion in new revenues we need to find to offset the revenue lost when we eliminate our tariffs. Then there is the almost $8 billion proposed to clean up the environmental disaster on the Mexican-American border.

In the end, some of NAFTA's opponents have estimated that the total cost of implementing NAFTA could run as high as $30 or $40 billion. That is no great surprise, really. The European Community spent nearly $100 billion in 4 years to integrate economies that started out much closer to theirs than ours is to Mexico.

Mr. President, one has to ask if a 200,000 net job gain and a .005 increase in GNP, is a good return on an investment of $13 to $40 billion. When I think about the kind of economic jump we can get from that kind of investment, I do not think that is a sufficient rate of return.

Take a look at just one other option.

Last spring, the Congress debated a $16 billion stimulus package that was eventually blocked. That bill, for less than the cost of NAFTA, would have quickly created 500,000 jobs. It would have produced real improvements in our infrastructure and improved the quality of life for our people. But it was defeated. I fear the programs associated with the NAFTA will suffer a similar fate.

In the past weeks, a new rationale for the NAFTA has emerged. Many analysts have argued that the NAFTA is less an issue of trade with Mexico, and the economic consequences that flow from it, than it is a foreign policy issue.

The issue here is the effect the approval or defeat of the NAFTA would have on economic and political developments in Mexico and on our relations with Mexico. Mexico is a country with which we have had a troubled past. It lies right on our border and could be a source of hemispheric instability, continued illegal immigration, and ongoing environmental problems or it could be a bridge to a stable and democratic Latin America.

Proponents of NAFTA feel it would be a slap in the face of Mexico to turn down this agreement at the last moment, when President Salinas has extended himself and staked his party's future on approval of the agreement. They argue that its rejection could set back economic development, political reform, and future Mexican-American relations for decades.

Others argue, including many in the opposition party in Mexico, that approval of NAFTA is regressive, and would reward the Mexican Government for policies and abuses that we have refused to tolerate in other countries seeking trade preferences with the United States.

They argue that NAFTA should have included stronger labor, environmental and health and safety protections along with provisions for political reform and human rights protections. Without these reforms built into the agreement, they feel NAFTA will ultimately breed discontent and instability in Mexico and impose an unreasonable competitive disadvantage on companies desirous of keeping their facilities in the United States. We should heed this warning.

Mr. President, there is an alternative to approving this NAFTA. This NAFTA offers, at best, only marginal economic benefits. It could also result, ultimately, in the assumption of power by political leaders that oppose the current system and view America's blessing of NAFTA as a setback to efforts at political reform in Mexico.

Rather than signing this agreement, could we have offered a deal that provided incentives for change generated within Mexico? Could we have structured a NAFTA that required improvements in Mexican environmental regulation, labor standards, and its political structure? And why not build in some help for our workers as part of the legislation approved by the Congress, so we have assurances that they will not be left out when the hard decisions have to be made?

That is what the European Community did with Spain, Portugal and Greece. The EC made these countries lock in certain economic and political reforms—and then allowed them entry into the Common Market. When the EC considered integrating southern European countries into the community, it was sensitive to the vast discrepancies in their economies, labor markets, wage rates, safety standards, and the like.

We have not followed the EC model. We have looked to NAFTA as an agent of change, but have not required reform prior to its implementation, nor even built in strong agreements that make reform likely. And that is a fundamental philosophical weakness in the NAFTA.

It is a philosophic weakness with practical consequences.

In closing, Mr. President, I want to respond to a recent argument that the rejection of this NAFTA would lead to the demise of ongoing GATT negotiations or could stymie efforts to develop greater trade with the Pacific rim nations with whom President Clinton will meet this weekend. I reject this prognosis.

In fact, I think our focus on NAFTA has become so overwhelming, it has

put other, more important and promising trade negotiations on the back burner.

The GATT negotiations have been limping along now for upward of 7 years and have about a month to go. They are on a respirator, so to speak. GATT has problems of its own that will take strong American leadership to overcome. The U.S. Trade Representative Mickey Kantor was charged with leading the fight for NAFTA. He and his office have done a terrific job for the President.

However, that has meant devoting enormous energy to an agreement that will produce only marginal benefits while the Uruguay round of GATT, whose effect will be indescribably more profound, might fall apart.

It is also possible that some of the concessions made to pass NAFTA in the House could actually undermine GATT. In the process of trying to win support for NAFTA, we have taken steps that could harm GATT negotiations. Deals have been struck on sugar, wheat, citrus and other products—decisions that could make it more difficult to get fair trade rules on these and other items in GATT.

Congressional action on NAFTA, a singularly unique trade agreement, which has never enjoyed strong support in the Congress, should not be linked with U.S. policy on GATT or trade initiatives the President is undertaking with Pacific Rim countries.

These two initiatives, strongly supported by President Clinton, are the kind of forward—looking policies that can help our economy grow and create jobs. President Clinton has a lot of support in the Congress for his leadership on those trade policies and should be commended for them. I see no reason why they should be jeopardized by Congressional wishes to serve up a better NAFTA.

The NAFTA debate has transformed into something its drafters never imagined. It is hard, Mr. President, very hard. The agreement is, in theory, a good idea. Free trade is a desirable goal. NAFTA, as a whole, does offer some potentially real benefits to the Nation as a whole.

But that, Mr. President, is just not enough. Not when you look at what we are being asked to pay for what we are going to get.

So it is with some regret that I will vote against NAFTA.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER) The Senator from New York.

Mr. MOYNIHAN. May I congratulate the Senator from New Jersey for a thoughtful, carefully set forward statement that I hope will influence the body on the outcome of the vote which will not take place until tomorrow, I assume, but time enough.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. For Senator PACKWOOD, I yield myself 10 minutes.

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

Mr. GRASSLEY. Madam President, I am going to support the North American Free-Trade Agreement as I stated a couple days ago on the floor of this body, but I now have reasons more directly related to my constituency, the progress that it will bring to the growth of our economy in the Middle West, and how it relates directly to the benefit of the people of my State.

I firmly believe that eliminating trade barriers with our neighbors to the north as well as the south will provide Iowa and the entire United States with a chance for advancing our economy very much, and in the process will make this the single largest trading market in the world. By lowering tariffs to zero on both sides of the border, I believe that history will prove free trade can help rich and poor nation alike, with the advancement of the respective economies for the help of all citizens within those territories.

However, the vote on NAFTA to me is more than just a vote for economic reasons or for economic growth. It is also a vote on whether we embrace positive change or whether we are going to stand for the status quo and perhaps even do it out of fear of what the future holds. Moreover, this vote will test the very fabric of our political, moral, economic, and foreign policy leadership, not only for our northern and southern neighbors but with our trading partners all over the world.

Mr. President, clearly there are differences of opinion in this body among men and women of good will on this issue. Even in my home State of Iowa a poll was conducted between October 27 and November 2 in which 36 percent of the people surveyed supported NAFTA and 37 percent opposed, with 28 percent not sure how they felt on the issue.

On the other hand, this is a dramatic change from past polls in which people were more opposed to NAFTA than in support of it. I think it parallels national polls which are showing that as people think about NAFTA and the benefits of it, it is gaining support throughout our populace. Yet, regardless of the even split on polls within my State, it seems that members of the agricultural, business and service industries in my State who have contacted my office or otherwise voiced their opinions in the various publications in my State more often than not support the establishment of a North American free-trade area. A sample of such support can be gained from the following quotes of economic leaders within my State.

I would quote Merlin Plagge, President of the Iowa Farm Bureau Federation:

> Our support [for NAFTA] is based on fact and figures that prove beyond a shadow of a doubt that this free trade agreement will be good for Iowa farmers, for American agriculture and the entire U.S. economy.

I would like to quote Glen Keppy, president-elect, National Pork Producers:

> How can any reasonable person in Iowa be against NAFTA? It will mean the opportunity for more rural development and jobs created by the sales of more of the agricultural products Iowa leads the nation in producing.

I would like to quote Charles S. Johnson, executive vice president, Pioneer Hi-Bred International:

> NAFTA will create unprecedented opportunities for Iowa's service industries, including banks, securities firms, insurance companies, telecommunications, trucking and rail transportation. Clearly, there are compelling economic reasons for Iowans to support NAFTA. However, just as compelling is the legacy we leave for our children and generations to come.

Fourth, I would like to quote Donald R. Beall, chairman and CEO, Rockwell International Corp.:

> NAFTA will strengthen the continued expansion of the Mexican marketplace for Rockwell's commercial products. In fact, we expect 104 percent growth over 4 years in U.S. based Rockwell jobs dependent on Mexican exports, and passage of NAFTA is key to fulfilling that prediction.

Let me say parenthetically that Rockwell has a major facility in my State as well.

Then, to quote from a smaller manufacturer in the State of Iowa which is doing business in Mexico, in one such letter from the president of an Emmetsburg, IA, firm he stated:

> Due to increased overall business that our Mexican plant has helped us win in less than two years, after its inception, our factory employment in Emmetsburg, Iowa increased from 84 to 147 people.

And, Mr. President, many companies all over this country, as a result of the anticipation of passage of NAFTA are moving jobs back to the United States:

AT&T brought 92 jobs from Mexico to Atlanta;

Halliburton of Texas is closing its maquiladora facility;

Tandem Computer of California has closed its Guadlajara, Mexico, facility in anticipation of lower tariffs;

Technol Medical Products of Texas brought 40 jobs back to Fort Worth; and

Quality Coils of Connecticut who moved their plant to Mexico are moving back to Stonington, CT, after realizing their mistake. It takes three Mexican workers to do the work of one Connecticut worker. And the list goes on Mr. President.

In the case of my home State of Iowa we have found our exports to Mexico grew by 203 percent from 1987 to 1992, 155 percentage points faster than export growth to the rest of the world. We have seen exports of industrial machinery and computers grow from $8

million to $44 million; chemicals from $2 million to $13 million; and transportation equipment from $646,000 to $10 million. Iowa, along with 17 other States now rank Mexico among our top 3 export markets.

If Mexico is our third largest trading partner, and it is that way without NAFTA, I think it is pretty easy to see that for my State, as well as for a lot of other States, NAFTA is very good for the prospects of future development in the export business.

Of course, I suppose we would all have to admit that NAFTA may not be a perfect document. Even in my home State, I had some reservations about the impact on major home appliance industries. And, of course, have no doubt in anybody's mind that I will be monitoring the negotiations for an acceleration of tariff reduction agreed to between Mexico and our Government in letters exchanged in recent weeks.

My vote for this agreement is best summed up by another Iowan who wrote me, in which she said:

> It is my belief that NAFTA is an important key to future economic prosperity for the United States, Mexico, and Canada. The only reason one would oppose NAFTA is fear. I do not believe that there will be a "giant sucking sound" coming from Mexico if NAFTA is imposed * * * except perhaps the sound of Mexico sucking up American products and services.

Mr. President, it is time we had a vision for this country that will take us into the 21st century. It is time to cast a vote that will raise the standards of living for every American working man and woman, their children and their children's children. Change is not easy and rarely without risks. The time is here for each of us to take that bold step for all mankind and cast a vote in support of NAFTA.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Wisconsin, and I ask the time be charged to the Senator from New York.

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

The Chair recognizes the Senator from Wisconsin for 10 minutes.

Mr. KOHL. I thank the Senator from Montana.

Mr. President, I rise today in opposition to the NAFTA.

I am a Senator who has never asked or taken a nickel from any PAC, let alone a labor PAC. So I do not speak here as a person who is interested in maximizing my monetary advantages with labor. In fact, when I ran for office in 1988, not only did I not get any money from labor, but in the primary I was not even supported by labor.

So I do not rise here in my own political self-interest; I think, politically speaking, I might be better off voting the other way. I rise today to speak against NAFTA out of a sincere conviction and a strong feeling that this is not the best trade arrangement for this country, nor the best trade arrangement that we could be making at this time for this country.

To me, in effect, what NAFTA is doing is making Mexico, for the purposes of trade, the 51st State. That is the goal of what we are trying to do here. We are trying to make it as easy—and, in fact, are making it almost as easy, if not as easy—to do business in Mexico as it is to do business in any of the 50 States. The goal here is to make it as simple a procedure to invest, to hire people, do business, and then transport your commodity between Mexico and the 50 States as it is between Wisconsin and Iowa or Wisconsin and California.

But, of course, there is one huge difference in this trade arrangement, and Mexico is very much aware of it. I think we need to recognize that this is a trade arrangement and it is a tough arrangement. It is not something that either country, certainly not Mexico, is entering into with soft and fuzzy feelings. They want this because they clearly are convinced that it is in their best interests, not in our best interests. Why do they feel this way? Because with this arrangement, they will be in a position for as long as the eye can see to make Mexico a less expensive, a cheaper place to do business than in the United States.

There is nothing in this agreement which will ever force them, if they do not wish, to raise their wages, or to raise their benefits or their environmental costs, or anything of that sort. They will raise only as they see fit, in my judgment, and only to the extent that they will continue to maintain a decided advantage in the cost of doing business.

So I expect, after this agreement is ratified, if it is, and we all expect that it will be, that they will advertise all over this country and they will be saying to American investors, American manufacturers, American people who want to go into business: Come to Mexico, and we will prove to you that it is a better place for you to do business and make money than it than is in the United States. And American investors—take General Motors, for example, who runs a plant in Janesville, WI, employing about 5,000 men and women. They are paying about $35 in wages and benefits. The comparable cost in Mexico is perhaps $5. You may say but they cannot get the same productivity in Mexico. That is not true. The work in that plant in Janesville, WI is work that with a few months training a literate Mexican will also be able to perform. The literacy rate in Mexico is 87 percent. Here it is 97 percent.

So why do we think that General Motors, when it comes time to build a new plant, will not calculate that they are better off building it in Mexico, selling into the Mexican market, being able to transport their product back into the United States at no cost? Why will they not be better off? And if they want to stay here to build a new plant, they can and will go to the union here in this country and say: Look, we can go to Mexico, but if we can make a deal with you, not at $35 an hour but at $20 an hour, we will stay here; otherwise, we will go to Mexico to build our new facility. And there is nothing wrong with that under this agreement. In fact, we encourage that under this agreement.

So, to me, this kind of an arrangement is very beneficial to Mexico. It is not nearly as beneficial to this country. It is a simple trade arrangement which, in my judgment, is heavily weighted in favor of the Mexicans, to the disadvantage of working people in this country all across the board. If we do not lose jobs—which we will—it certainly will have a depressing effect on the wage structure in this country, because we will have the colossal number of people—90 million people, soon to be 100 million people to our south, in the biggest "State" by far for trade, the "51st State," offering a cost of business which they can make lower than doing business in this country for as long as they wish. There is nothing in the agreement that prevents that. This, in my judgment, is not in our best interest.

One argument the administration has made that I think is particularly misguided is the argument that if it does not work, we can pull out. Well, nobody has said that here on the floor, and it is really not an honest argument to make. Let us imagine that 5 or 10 years from now, after American companies have invested hundreds of billions of dollars in Mexico, there is some clamor to pull out.

How will we do that? Will we just allow these American companies to be nationalized, to have their investments perhaps even taken away or penalized severely? There is nobody, in my judgment, in their right mind who really believes that once we enter into this agreement, we will pull out. That will not happen. It is an agreement for as far as the eye can see, if not in perpetuity.

I think we could have done a better job. I personally desperately wanted to vote for a free-trade agreement because I recognize, as I think all of us do, that we have to engage the world in trade. But it cannot be at any price. It has to make some sense. To me, this agreement, leaving Mexico with total autonomy over how they are going to run their country commercially, gives them an advantage which is just enormous, which I expect that they will use not to our benefit, but to the benefit of people in Mexico, to the detriment of people in our country.

So I am really sorry, and I regret that I must vote against this NAFTA. Thank you.

I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). Who yields time?

Mr. BAUCUS. Mr. President, I would like to address the question of wages for just a few minutes. A real concern among many Americans is that lower wages in Mexico are going to cause a lot of American jobs to go south, into Mexico. This concern is raised because wages in Mexico are in fact lower than wages in the United States.

Some Senators, however, say that the average wage rate in Mexico is 57 cents an hour. This is not accurate. The average wage rate in Mexico is about $2.32 an hour, and that wage rate is rising dramatically.

In about 1982, the world experienced oil shock, and Mexico particularly. This sent the Mexican economy into a tailspin. The depths of the depression in the Mexican economy as a consequence of the oil shock was so great that the standard of living in Mexico declined at a rate of about two to three times greater than did the U.S. economy during the Great Depression in the 1930's. The Mexican economy was in tough shape.

So it is true that after 1982 wage rates in Mexico declined. In 1987, however, when President Salinas came to power, the Mexican economy began to change, and it changed dramatically. Since 1987, the average wage rate in Mexico has risen approximately 132 percent, and it is continuing to rise. It is rising essentially because of the efforts of the Government of Mexico under the leadership of Salinas to get a hold of their economy, to get their act together. That is exactly what is happening.

The Mexican Government decided they are not going to be left behind in the world, that they are going to have to make changes. Since the mid-1980's they have privatized, selling off bloated, heavily subsidized state-run enterprises. And in 1986 they joined the GATT and began to very significantly lower tariffs. Essentially, they discarded and ejected import substitution policies which were the rule of the day in Mexico since the revolution.

The oligarchy that controlled Mexico for years liked the policy of import substitution, namely, subsidized local industry, protecting local industry with high tariffs, and so forth. And it worked for a while. But in the mid-1980's, President Salinas realized that it might make sense in the short run but not in the long run.

I might also say, Mr. President, that lower wage rates are not the sole reason why a company might move to another country where wages are in fact lower. Generally, lower wage rates also reflect lower productivity; it is a basic rule. In fact, most American executives will say that wage rates in Mexico are about one-fifth what they are in the United States, conversely, productivity in the United States is about five times what it is in Mexico. It is another way of saying that for one-fifth the wage rate in Mexico one-fifth the amount of products is produced. It is about the way it works, and that is why most companies, even though they see on paper lower wages in Mexico, do not go to Mexico.

Why is the productivity so much lower in Mexico than the United States? It is very clear. It is because of the additional costs that are associated with production. Infrastructure costs in Mexico are much higher than in the United States, telecommunications, absenteeism. Its work ethic is a bit different. There are all kinds of reasons why productivity is so much lower there than in the United States.

The Office of Technology Assessment, an arm of the Congress, did a study of this. It looked at the automobile production capabilities in Mexico and compared them with the United States. It looked at what it cost to produce a Ford in Mexico and what it cost to produce that very same car in the United States—all things considered, wage rates, power costs, health care costs, everything that goes into the production of a car. And guess what the OTA concluded? It concluded that it cost $410 more to produce that very same car in Mexico as it does to produce that car in the United States.

That is why, Mr. President, low wages are not enough to attract companies to Mexico. In most cases, it is not worth the American companies' effort to do so because of the productivity differential. The fact is, if low wages were the only determinant, companies would go to Bangladesh. They'd go to Bolivia. They'd go to Brazil. They would keep on going south. They would not stop in Mexico.

So I urge all my colleagues, urge everyone to think through all this argument about wages.

Let's be honest with ourselves. NAFTA is complex. There is no simple easy answer. On the one hand, higher Mexican tariffs are going to be eliminated, making it easier to export. One of the best examples of this is that the Department of Commerce projects there will be 2-billion additional dollars of automobiles manufactured in the United States, to Mexico. $2 billion; $1 billion in cars and $1 billion in trucks. Why? It is very simple.

Mexico today has a 20-percent tariff on autos; Twenty percent extra is added on to the cost of an automobile that the United States produces to try to ship to Mexico. That is going down to zero.

What is our tariff on Mexican autos? It is 2.5 percent. It is roughly one-tenth on Mexican cars in the United States.

So that partly explains why with the passage of NAFTA we can export more automobiles.

Why else? Well, Mexico has this auto decree. It says, among other things, that for every automobile produced in Mexico, you have to sell one in Mexico. It is a one for one. That is going to be phased out. And that is another reason that we will be able to sell a lot more autos to Mexico as a consequence of NAFTA.

Now, let me address the issue of investment. It is true that NAFTA has some investment relaxation provisions. That is whereas we today in the United States allow Mexicans to invest in the United States, Mexico has very tight restrictions, which makes it difficult for Americans to invest in Mexico.

Now, some argue that when Mexico relaxes its investment restrictions, there will be another giant sucking sound of investment going to Mexico. They say plants and equipment and jobs will go to Mexico that otherwise would be in the United States. The assumption is relaxation of investment restrictions in Mexico by definition that is taken away from the United States. It does not happen that way. It does not happen that way.

What is the evidence it does not happen that way? One bit of evidence is the common market. It is very dramatic evidence, and it is very interesting. When Spain, Portugal, and Greece entered the common market what happened? Investment increased in those countries. Investment also increased very much in Germany and Japan and the other countries. All countries gain.

So this whole discussion of mine, Mr. President, all started with the question of wages in this so-called giant sucking sound.

As the Treasury Secretary, Lloyd Bentsen, very accurately said, old Ross Perot has a hearing problem. The giant sucking sound is products going South, not jobs.

Ten years ago, before President Salinas started getting the programs in place, there was a $5 billion United States deficit with respect to Mexico. Today it is just the opposite. We Americans have a $5-billion surplus in products to Mexico. This will increase as tariffs are eliminated, and will create more incentive for many more products to go to Mexico. That means jobs to the United States of America.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. BAUCUS. I am happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I am trying to follow the flow of the Senator's argument. Is the Senator from Montana trying to compare NAFTA with the common market? He mentioned the common market as an example. I am under the impression with the common market you have a social contract where there are really rather clearly

defined standards, health and safety and labor and environment, that all countries live up to, thus leading to an uplifting of living standards. My impression is that is not what NAFTA is about. I want to raise that question.

Mr. BAUCUS. I respond with the time equally charged to both sides during this dialog.

Mr. President, the main point I am making is that on the surface, because nominal wage rates in Mexico are lower than they are in the United States and it seems like there is appeal to the argument that more American jobs go south and more companies are going to locate their plants in Mexico. I am pointing out why generally, although it has been a little bit of that, once one thinks it through more clearly and thoroughly there are fewer reasons for a company to go south today, essentially because the productivity difference basically mirrors the wage rate difference.

I am further going on to say that NAFTA if all those problems existed today, and they are not near as great as some Americans think they are. NAFTA has the effect of increasing wage rates in Mexico faster than otherwise would be the case. There are all kinds of reasons we can get into if the Senator would like me to get into them.

Then I made the second point earlier that to those who say not this NAFTA, but the common market approach, I come back and say I do not know if that is really what you mean because the common market has the same taxation system, it is a VAT; the common market has complete freedom of ability of labor. Someone from Madrid can get on a plane and go to Italy, go to Germany, go to France, no visa, no green card, no work permit, nothing, get off the plane and apply for a job, which is not what we are doing here.

We are just saying we are going to have a bigger market because tariffs are down. But we are not going the steps that the European Common Market went because we do not have quite the same historic background antecedents for that kind of union. It may occur in this hemisphere 50 or 60 years from now, but it is certainly not in the cards for the next several years.

Mr. WELLSTONE. Mr. President, I actually just came down to see how the debate was going. I understand that I have some time.

I want to say to the Senator from Montana, it is less a question and more a point, that if we are going to talk about the Common Market, anybody who is watching this debate ought to understand that, No. 1, there is a contract that countries live up to; No. 2, the countries in the Common Market, not one of them denies people the right to join their own independent labor unions, as is the case in Mexico, as is not guaranteed in the North American Free-Trade Agreement but should have been guaranteed in the North American Free-Trade Agreement; and, No. 3, human rights organizations, in their reports on Mexico, talk about a persistent pattern of violation of human rights, so that even if you have environmental standards, though fairly weak, and labor standards, though fairly weak, then as a matter of fact when citizens seek redress of grievances regarding those standards, they can find themselves in prison.

That is not the experience of countries in the Common Market.

My final point is that I believe—I say this in the presence of some other Senators who have a record that I admire concerning human rights—that in the post-cold-war period the United States of America should sign trade agreements with other countries but not trade agreements that endorse repression of labor and the violation of human rights.

If the United States of America, in this new emerging world order, cannot sign a trade agreement linked in a principled way to human rights and democracy, I would suggest (a) we are violating the core values that we as a nation stand for; and, (b) what will happen is that this will set a precedent for similar agreements with Central American countries, South American countries, and for all I know with China, as well. And, as a matter of fact, average working people in this country will not be able to compete with those low wages in those countries where people cannot join labor unions, where they cannot express their rights. People of the United States, working class people, working families, will not have wages that will give them a decent standard of living or adequate purchasing power to participate meaningfully in the international economic arena.

I suggest further to my colleague who talked about careful study that there are people on both sides who have carefully studied this question.

I would one more time emphasize what I said earlier, which is that I know that when I visited Mexico, what I saw—I am sorry. I am taking too long; I apologize to the Senator from Arizona. I will be done in one second. What I saw, regardless of all the indices and definitions one might use to figure out average wages, was a check stub—this happened to be a Minnesota company that was located in Tijuana—indicating that for 48 hours, this woman made about $47.

I also saw the shanty towns. And I say to the Senator from Montana, because he has been a real leader on the environment, I saw some of the worst environmental degradation I have ever seen.

But I want to talk about the Government. The interesting thing is that when I visited Tijuana, a representative of the PRI—the Partido Revolutionario Institutional—the Salinas administration, met me and told me this was just fine. It was at a battery recycling plant. Yes, there were dairy farms next door and there were sometimes children playing nearby, but it was really fine. They had studied it and they could reassure people it was no problem. But local people told me no such study had been made available.

The most interesting point of all is that some weeks later, when Representative GEPHARDT came to visit the same site with a delegation, they were met by representatives of the same government dressed up in suits to protect them from what they said was too dangerous a site for the congressional delegation to visit.

I have to say to my colleague, it really saddens me that the United States of America is signing a trade agreement like this and we are not using our capacity and our leverage as a leader in the world community to sign a trade agreement linked to human rights. How can we do that? What do we stand for?

And when you talk about wage levels, I would match the work of Harley Shaiken against that of anybody. I have read his monographs. I think people are familiar with his work. His work demonstrates that it is not just a case of losing low-skilled jobs to Mexico, though if I was going to lose my job as a low-skilled worker, I would be worried because we do not have money for the displaced in this agreement. I think we are going to throw people out in the cold. I think we are going to spit them out into the economy. I see no guarantee of support for people who lose their jobs.

If anybody on the floor of the Senate says, "Oh, well, you shouldn't be so worried. You should understand in the long run we will be better off." Well, someone once said, in the long run we will all be dead.

If it was my family and I was worried about putting bread on the table, you can bet I would be worried about what would happen to me.

But take a look at the auto industry. Is it not true, I ask the Senator from Montana, that we now see in Mexico a skilled work force, with high levels of productivity, producing engines, producing Escorts, of high quality, at what wage? What do they make? $2 an hour versus what an auto worker in our country makes—$14, $15, $16 an hour. What explains that difference?

Let me answer that question. What explains that difference is that they cannot belong to an independent union. What explains that difference is the evidence in our human rights reports that when people have protested working conditions, when they have protested wages—I see the Senator smile; it is not really anything to smile about—they are often jailed. They are imprisoned. This is the country we are

signing this trade agreement with? If we are so concerned about human rights in other countries, why are we not as concerned about human rights with our next door neighbor?

Finally, from the point of view of foreign policy, I think it can be argued in good faith, if we would care to talk to some other Mexican people rather than just representatives of the government, the people in Mexico are going to be worse off. We are locking them into an authoritarian political system with very little hope.

And I might say to my friends who are economists, the Mexicans thus are going to be making such sufficiently low wages for a long time that we are undercutting the very market we say we are going to create. When you talk about all the cars we are going to sell—it reminds me of a conversation between Walter Reuther, I think it was Walter Reuther, I say to the Senator from Michigan, and Henry Ford, or something like that, if I got the two of them together in the same historical period. Henry Ford was talking to Walter Reuther and showing him all the new automation and technology and said, "Well, Walter, what do you think of that?" And Walter Reuther said, "I think the problem is you are going to have to have workers who make enough to sell the cars to."

We are promised a great market. At 59 cents an hour or $1 an hour? In the auto industry or electronics industry with a high productivity work force, of $2 an hour.

I ask my colleagues, whatever happened to the vision of our country? I thought we were going to link human rights to trade agreements. How come all of the sudden we have turned our gaze away from that question? Until we do that, I think we betray the very core values of what our country stands for.

My final point, since I simply got the floor. I have used up my time for tomorrow. I will not use it tomorrow. I thank the Senator for his patience.

My final point is, I can say as a former teacher, which gives me no higher ground to stand on than anyone else here, but as somebody who has been interested in political economy that I have a fair amount of indignation about the way that people—and I am now talking about ordinary citizens, which I do not mean in a pejorative sense—have somehow been made to look stupid because they are worried about what might happen to themselves and their families.

Who speaks for these people in the U.S. Senate? Who speaks for the people who are worried about losing their jobs? Who speaks for working class people?

And I do not think it is just a question of unions, although I am very proud to support labor. It is a question of a huge segment of the population out there who are really worried about where this takes us in the future.

Do you know what? There is a rigorous, Keynesian economic analysis that says they have every reason to worry.

I hope I am wrong. But I would far prefer to represent those people tonight, and that is why I certainly will vote against this agreement.

I congratulate President Clinton for his strength of purpose and for his great ability in getting NAFTA passed in the House of Representatives. I just wish he would have used his skills to get a trade agreement signed which would have promoted human rights and democracy in Mexico, and would have led to an uplifting of the living standards of people in our country, Canada, and Mexico. He did not do so, and I think that is the tragedy of this agreement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I very much appreciate the remarks of the Senator from Minnesota. I think everyone of us here is trying to wrestle with a very difficult question, that is: Will this agreement help provide more jobs or will it not? It is not an easy matter. There are many studies, many arguments. We are all wrestling with this question. I believe, however, the passage of this agreement will help working men and women and help this country not only in the short run but also in the longer run.

I must say we all very much sympathize with the conditions in Mexico the Senator from Minnesota refers to, the environmental conditions. I have been there many times. I have been to the Rio Grande many times. I have been in these homes. These conditions are very poor, in addition to the human rights concerns we have. But I might add, in my judgment some of the problems—not all, but some of the problems the Senator referred to—will to some degree be addressed by the passage of this agreement. Not entirely, but we will begin to get at some of these problems. It will tend to address some of the civil rights problems as well as environmental problems. That is why President Jimmy Carter, who takes a back seat to no one promoting human rights around the world, is a fervent advocate or proponent of this agreement.

I yield 10 minutes to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to congratulate my colleagues in the House for taking the important step in passing the NAFTA last evening.

This was a strong vote of support of opening markets around the world to American goods; of continuing our commitment to countries pursing economic reform and of choosing cooperative efforts with neighboring countries over isolationism.

Where American goods are allowed open access to foreign markets, our exports have soared. The goods that American workers produce can compete in any market in the world when they are given fair and open access.

It is no coincidence that as Mexico has taken steps to reduce its barriers to trade and investment over the past 5 years, American exports to our neighbor have increased by $26 billion. In my own State, our exports have increased by $1.2 billion over the past 5 years to $1.8 billion.

I believe some people involved in this debate have made NAFTA appear more complicated than it is. NAFTA is an opportunity to level the playing field in trade between the United States and Mexico. Mexico's tariffs are 2½ times higher on average than ours.

Simply stated, these tariffs and other barriers which Mexico currently maintains but would be done away with by the NAFTA, make our products more expensive and less competitive in Mexico. In fact, some requirements have forced manufacturers to move to Mexico in order to sell their products in Mexico. If we want to eliminate such incentives to relocate manufacturing to Mexico we must pass the NAFTA.

Another argument we have heard during this debate is "not this NAFTA." But we should all understand that we will not have an opportunity to have any other NAFTA. If we say no to this NAFTA, Mexico will not return to negotiate reduced trade barriers with the United States in the future; Mexico will simply turn to Japan or other countries who are ready and willing to accept the opportunity which NAFTA has first offered our country.

The United States can no longer take for granted its position as the largest, strongest, and most dynamic economy in the world. Meeting the challenges presented by the increasingly competitive world market requires the United States to strengthen trade relations and secure markets for U.S. exports. NAFTA is simply an opportunity we cannot afford to pass up.

The vote on NAFTA is about more than trade relations—it is also a vote to continue the historic and positive improvement in United States-Mexico relations. The cooperative efforts between the United States and Mexico on a number of issues—including labor, environmental, and narcotics—have taken our countries far beyond the days of mistrust that previously characterized our bilateral relations.

Rejecting NAFTA would most certainly play into the hands of those forces within Mexico who have opposed the efforts of Mexican President Salinas to reform the economy and to improve bilateral relations. Rejecting NAFTA would set back United States-Mexico relations and jeopardize bilateral cooperation.

One issue that has greatly concerned me since I first came to the U.S. Senate is illegal narcotics. We should not pretend that NAFTA is going to be the remedy for all of the drug problems in this country—it is not. But neither is NAFTA going to cause increased illicit drug trafficking. NAFTA reduces tariffs but it will not relax our border inspection requirements.

What we know for certain is increasing drug interdiction depends on an atmosphere of respect and cooperation with Mexico. Drug trafficking is an international problem and it requires that we closely cooperate with Mexico and other countries. Passage of NAFTA can help ensure such cooperation. Defeat of NAFTA will most likely erode the positive inroads we have made with Mexico for the past 10 years.

This vote is also a vote of support for Mexico and countries across Latin America who have taken what have been very difficult steps to reform their economies. For many years, the United States has urged countries around the world to achieve such reform by unloading inefficient State-run enterprises from their bloated economies, deregulating foreign investment and opening up their economies to foreign trade.

This is exactly what Mexico has done. There have been few economic success stories in recent history as great as Mexico's. News coming out of Mexico is no longer about economic stagnation, debt crisis and runaway inflation. It has been replaced by reports of real economic growth and improvement in economic conditions for the people of Mexico.

Coming from a State which borders Mexico and which has longstanding ties to Mexico, I can tell you that these reforms and the resulting economic growth has not benefited that country alone. It has directly benefited our country by allowing the people of Mexico to purchase more of the goods they prefer—American goods. This is reflected in the fact that we have gone from a trade deficit with Mexico in 1987 of $5.7 billion to a $5.6 billion trade surplus in 1992. Opponents of NAFTA who question the importance of our trading relations with Mexico should reflect on these figures as well as the fact that Mexicans purchase more on average in United States goods than the average Japanese or European.

Much has been said in this debate about environmental conditions in Mexico, especially along the United States-Mexican border. No one needs to tell Arizonans that environmental pollution does not respect political boundaries. Industrial behavior in Mexico directly affects the ecology of Mexican communities and their sister United States twin cities.

NAFTA presents an opportunity to address these environmental concerns. Like narcotics issues, the most sure way to improve environmental conditions on the border is to continue cooperative efforts with Mexico. This is not an issue we can solve by building a wall between our countries.

I am pleased that the NAFTA debate has brought much needed attention to environmental issues along the border. I look forward to working with the administration to ensure that we develop appropriate solutions to these problems and devote the needed funding to address these problems affecting communities on both sides of the border.

Rejection of the NAFTA would be a mistake of historic proportions. If we turn down this opportunity, our country might never again be given the chance to negotiate lower trade tariffs with this important trading partner, in fact, we might well face higher barriers in Mexico in the future if we reject NAFTA; Mexican forces opposing economic reform would be bolstered and improved relations between the United States and Mexico—indeed all of Latin America—would be jeopardized. I urge my colleagues to consider the historic importance if their vote on NAFTA and the gravity of rejecting this trade agreement.

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

Mr. DECONCINI. I will be glad to yield.

Mr. BRADLEY. I would like to take advantage of his presence on the floor to focus on something he is probably more familiar with than many people because he shares such a sizable border with the country of Mexico; and that is the familiarity with the Hermosillo Ford plant. I had the benefit of spending some time with your former Governor not so long ago and he described how——

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

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, the distinguished former Governor of Arizona described how, when he learned that a Ford plant was going to be built 50 miles from the Arizona border, he went right to Detroit and he went into the corporate offices and he started ranting and raving and saying, "Why didn't you build that in Arizona?"

Does the Senator recall that decision?

Mr. DECONCINI. That is a correct story. I have heard the same story. I live there, and I know it is accurate.

Mr. BRADLEY. The auto industry executives explained a fact of life in doing business in Mexico: If you want to sell an automobile in Mexico, you had to comply with the provisions of something called the auto decree. And the auto decree said for every two cars that you manufacture in Mexico, you have to export one. The result was that we exported virtually no cars to Mexico, Mexico exported up to 400,000 cars into the United States, and they produced cars for the domestic market.

The Senator is probably also aware that as a result of the North American Free-Trade Agreement that auto decree is gone—is gone—and in the first year of NAFTA's existence, the automobile companies estimate that 60,000 cars will be sold into Mexico.

There are no longer the rules of origin, production requirements, but 60,000 cars produced in the United States will be sold in Mexico in the first year. That adds up to, according to the Commerce Department, about 15,000 jobs in the United States in the auto industry and the suppliers of the industry for those cars in production. Those are good jobs.

So tomorrow we will have a chance to talk about the other sectors of the economy that have jobs generated as a result of this, and there are many. But suffice it to say, the distinguished Senator from Arizona is on the floor and I felt it was important to take advantage of his own knowledge of the Arizona/Hermosillo situation to highlight that fact.

I must say, as I have been listening to the debate about Mexico, I felt that there was a little absence of a kind of historical context—not even deep history, like back to the revolution. Not even that far back, but even back to, say, the late 1970's, the early 1980's. We had a Government in Mexico under Lopez Portillo that benefited from the oil boom. Vast petrodollars flowed into Mexico and, by and large, those petrodollars were not well spent, to say the least.

On top of that big flow of petrodollars into Mexico, Mexico got in the business of borrowing from international banks. It borrowed and borrowed and borrowed. In fact, the Finance Ministry in Mexico and other Latin American countries—you had bankers lined up in the late seventies and early eighties wanting, urging them to take out these loans from them.

The major banks in New York—I see the distinguished Senator from New York—Chase Manhattan, Citibank, and others—"take the loans."

Then, lo and behold, the crunch came. I remember in 1983, in the second row from the back, standing and making a speech saying that Mexico is on the brink of bankruptcy, and being visited within 2 weeks by the chairman of one of those large banks reassuring me, "No, no, there's no problem there; no problem there."

In fact, there was a problem and Mexico almost defaulted. The problem became so bad that Mexico was essentially in receivership and submitted almost its entire policymaking apparatus to control by the IMF because it needed capital. It could not get capital.

Banks were not lending any money anymore, and the IMF said:

We'll devalue your currency, balance your budget and, of course, borrow more from the bank so you can keep current on your interest.

As a result of that genius policy, inflation skyrocketed to 160 percent. The peso went from 26 pesos to $1 to 2,300 pesos to $1 in a matter of 4 years, 5 years; $30 billion flowed out of Mexico, capital flight from Mexicans wanting to get out from under this disastrous economic policy.

The oil price collapsed. Interest payments stayed high, and illegal immigration to the United States accelerated, courtesy of the IMF, the international banks, and a disastrous set of domestic policies in Mexico.

Now, at that time real wages dropped in Mexico. We hear all the talk about wages, what happened to wages in Mexico. They are not as high as 1979.

No, no, of course not, because this is what transpired in the middle of this decade, in the middle of this decade. Real wages plummeted. And I must say I did not hear a lot of speakers on the Senate floor deploring the plight of the poor Mexican worker who was struggling with 2,600 to a dollar in peso exchange and a 160-percent inflation rate eating up any kind of wage he might get through whatever mechanism of bargaining. It was all gone because of the inflation.

Well, there was a budget director at that time in the De la Madrid administration named Carlos Salinas. He said we are going to have a different approach here. We will have a different approach. Instead of having a weak peso, we are going to have a strong peso. Instead of having inflation at 160-percent and giant walls of protection and the Government simply printing money and the politics of Mexico amounting to an argument over which monopolist got which subsidies, what we are going to do is bring down those walls. We are going to control inflation by international competition. We are going to have companies from other countries sell into Mexico, undercut the price of the monopolists in Mexico.

He said we are going to reduce the budget deficit by privatizing, selling off all those dinosaurs that remind me of steel works in Ukraine and were not too dissimilar to steel works in Ukraine. He said since the wage earner in this country at 160-percent inflation was not making anything anyway, maybe we could have an agreement to limit wages and we will limit prices, the so-called el pacto. And that, indeed, was the combination of policies that began to restore stability to the economy of Mexico.

Mr. WELLSTONE. Will the Senator yield?

Mr. BRADLEY. Not yet—that began to restore stability to the economy of Mexico. These were not easy decisions. They were not easy decisions.

Oh, by the way, and in the interim, in that same period, or a little bit later, Mexico cut its internal budget deficit by the equivalent of four Gramm-Rudmans. We huffed and puffed around here. Gramm-Rudman, in 5 years we were going to cut our budget deficit. Mexico went through four Gramm-Rudmans in that period—cut its tariffs from virtually 100 percent to 20 percent, opened up its economy to international competition, sold off all of the dinosaurs in the public sector, and began to restore real wage growth, not wage growth that was eaten up by inflation the following year or the following month or the following day but real wage growth. Indeed, since 1987, wages, real wages in Mexico, have gone up 28 percent. Wages have gone up 135 percent, but real wages have gone up 28 percent.

So, Mr. President, when we talk about the circumstances in Mexico——

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

Mr. BRADLEY. It is important to get a little historical perspective on where we come from.

I would ask for 2 additional minutes from the Senator.

And one of the issues that this little story has in relevance to some of the concerns expressed by the distinguished Senator from Minnesota is in the maquiladoras. The maquiladoras could broadly or charitably be called a policy to attract capital by advertising that you are a sweatshop and a cesspool.

But if your back is against the wall, and the international banks have cut you off, you cannot get any capital anywhere else, what is your alternative? Declare bankruptcy as a country? The policies that have been instituted since 1988, really 1987, are policies that bring some hope to Mexico, some real wage growth, a stronger peso, restored investor confidence worldwide.

Mexico is now back in the international capital markets. It is able to attract capital to fuel investment, to generate growth, that will generate growth in wages, that will generate purchase of U.S. exports. That is what the policy has been for the last 5 years, and that is what the hope is for NAFTA, to continue in that direction.

If we fail to approve NAFTA and we tell Mexico: Sorry, no more capital; no, even though you have followed a policy just as we have enumerated in the books you should follow and the world capital markets are responding and saying we are now sending capital into Mexico to invest and to buy exports, and we say no, forget it, do you know what Mexico will do? It will go right back—it will have no alternative—right back to the policy of the sweatshop and the cesspool.

So the opponents of this agreement who stand up and make big speeches—and I respect all of the opponents of this agreement, and I have the highest regard for their integrity and their good intentions, but when they stand up and make the case that somehow or another——

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

Mr. BRADLEY. The agreement is going to hurt the average working person in Mexico, my question to you is, What is the alternative?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

Mr. WELLSTONE. Could I have just 2 minutes?

Mr. MOYNIHAN. I yield 2 minutes to the Senator from Minnesota. After that, I would yield 15 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Senator. I only have 2 minutes to respond.

Let me just assure my colleague from New Jersey I do have a historical perspective. I do know about the 1910 revolution. I do know about one-party rule in Mexico. I do know about Lazaro Cardenas, Sr., who was I think one leader during that period of time who in fact responded to people in the country. I am a little bit surprised to hear the argument my colleague just made because what he is saying is that a lot has changed. He describes economic progress, which I think, by the way, is subject to debate. But what has not changed is authoritarian government.

I never thought I would hear my colleague from New Jersey say that if you have a successful economic policy—and I question that in the case of current Mexico—then it is OK that you have an authoritarian government; that you have one-party rule; that people cannot join their own independent labor union; that when people seek redress of grievances, they can find themselves in prison. That has not changed at all, and that was the major thrust of my argument.

I would make one other point with my colleague, which is this. He says, what is the alternative? I would say the alternative is to have a North American Free-Trade Agreement, a single, integrated North American economic unit where in fact you do have fair labor standards.

Mr. BRADLEY. Will the Senator answer a question?

Mr. WELLSTONE. No, I will not yield until I am finished—until you do have health and safety standards, until you do have respect for the environment, and most important of all because my colleague has stood for this, until you tie that trade agreement to and use the leverage for promotion of human rights and democracy. That is the kind of trade agreement we could

have, and that is the tragedy of this one.

Mr. BRADLEY. May I ask the Senator, in this vision he is concocting, would he support, as in Europe, the free flow of people across national borders?

Mr. WELLSTONE. Within the common market?

Mr. BRADLEY. Between the United States and Mexico.

Mr. WELLSTONE. If in fact we had a single, integrated unit where we had countries with a comparable level of work conditions, wages, health and safety, and all the rest, that could be part of the future down the line. But right now we cannot negotiate an agreement with a country that violates the basic human rights of its citizens. As the Senator from New York said, how can you have a free-trade agreement with people who are not free.

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

The Senator from California is recognized for 15 minutes.

Mr. BRADLEY. Will the Senator from California yield for just 1 minute?

Mrs. FEINSTEIN. On the Senator's time.

Mr. BRADLEY. On my time.

I do not think the distinguished Senator from Minnesota and I disagree about the advisability of having democracy and human rights in Mexico. I think what we disagree on is the method by which you obtain it. Do you obtain it by engagement? Do you obtain it by working in countless ways on many levels in both the private and public sector with a country to bring it into a more representative democracy and a competitive election system or do you, the first time in 70 years it has extended its hand—the first time—its hand in partnership to the gringo so-called to the north, spit on that hand and say, "No, we don't want anything to do with you?"

You are going to have a lot of credibility down there at that point.

Mr. WELLSTONE. Could I have 1 minute to respond, someone?

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mr. WELLSTONE. Can I not have 1 minute, anybody?

Mrs. FEINSTEIN. All right, take a minute.

Mr. WELLSTONE. I will always believe in the Senator from California from now on. I thank her.

First of all, this whole issue of constructive engagement, I say to my friend that is the argument I hear made by people who want to have the Olympics in China. That is the same argument. It is the same argument.

My second point is if you want to talk about the alternative, there is not one of us, as we talk about alternatives, who is not interested in a trade agreement. There are good political scientists in Mexico—and the Senator from New Jersey has read some of their work—who argue that the best thing that could happen is not to sign this agreement, locking in an authoritarian government, but to make it clear to Mexico and other countries that the United States of America ties human rights and fair labor conditions to our trade agreements. That is what I thought was going to be the new world order. That is what we are about as a Nation.

Mr. MOYNIHAN. Mr. President, may I yield a full 15 minutes to the Senator from California? She has been very indulgent of a very important debate.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from California is recognized for the full 15 minutes.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, like so many others in this Chamber, I have been beset. I have met with the distinguished Secretary of the Treasury twice, three times with Ambassador Kantor. His staff prepared a breakdown on the tariffs under the agreement for me. I have met with think tank experts both on trade pro and con. I have met with economists both pro and con. I listened carefully to Vice President GORE. And I was importuned by the distinguished Senator from New Jersey, the highlight of my day one morning.

But, Mr. President, behind the abstraction, the theories, and the statistics of the North American Free-Trade Agreement, there is one inescapable factor; and that is, the real faces of the working men and women of this country, and what will happen to them.

I am not the Senator from Mexico. I am the Senator from the State of California.

My people are laboring on assembly lines, in garment factories, in hothouses riotous with flowers, and in fields laden with produce. They are behind cash registers in corner stores, at the pumps in local gas stations that serve those who work in the plants and packing sheds. They are riveting, fabricating, driving trucks, sewing on machines with children nearby. I have seen others in unemployment lines or sitting at home waiting for a phone call for a job.

I know engineers who have been out of work for more than a year who have sent out hundreds of résumés and are still looking for a job. Machinists and carpenters as well as engineers by the tens of thousands are looking for work in my State.

The faces of these workers are lined with worry and filled with anxieties not so widely experienced since the Great Depression.

In California, the Golden State, where optimism has always been high, persons with even secure jobs are now worried they might get pink slips.

I have been lobbied by companies who are changing their permanent workers to temporaries. They will not tell me they are not now going to move to Mexico. Their health plans have disappeared.

Unemployment in my State is 3 points above the national average. In all, 1½ million people are out of work. That is more than the people in 13 separate States. I can never remember it being this way.

And these numbers are going to swell because there is still $5 billion in Bush defense cuts yet to realize, and $11 billion in Clinton defense cuts yet to realize. California will bear 50 percent of that burden.

It is these faces I see when I look at NAFTA. Because of them, I have no alternative but to cast my vote against the agreement. I want to explain why.

NAFTA, I am concerned, will contribute in the immediate term to joblessness and economic dislocation in my State. In every study I have seen which says there will be job loss, California heads the list of States with jobs at risk under NAFTA.

A publication by America's Industry Relocation Service describes how relocating 100 workers in Mexico, is advertised to be just 6.67 percent of the yearly labor costs for 100 workers in the United States. How does that not move jobs south?

If the yearly labor cost per 100 workers in the United States is $3.1 billion, and if that yearly labor cost as remitted by relocation services is $200,000 in Mexico, that is a savings of $2,900,000 to a company with 100 workers earning those salaries that move south.

So I speak today as someone who is elected by the working men and women of the State of California, and elected not to preside over the diminution of their standard of living.

The beauty of this country is that you can be a laborer, an electrician, a bricklayer, and still own a home with a floor. You can buy a car. And yes, you can even send your kids to college. You cannot do that on $1 an hour. That has been the beauty of this country.

I am also concerned that as new plants are hastily built in Mexico without the proper sewage facilities, and as crops are dusted in Mexico with pesticides banned in this country, rivers that run north—and they do—will carry this pollution through prime agricultural land in California. There is no question that NAFTA fails to cover the full cost of the necessary infrastructure to safeguard the environment.

Perhaps if the California economy were stronger, if there were greater prospect of new jobs soon, greater security and prosperity for California's workers, I might be able to accept the gamble that NAFTA brings with it. But this is no time to gamble with uncertainty. And regretfully, NAFTA is filled with uncertainty.

No one can say for sure whether it will create jobs or lose jobs. No one can say for sure whether it will expand production in this country or see it move south of the border. The North American Free-Trade Agreement is like an imperfect diamond with facets and flaws that sparkle or not, depending in what light it is held. Those who support NAFTA say it may create 200,000 new United States jobs. Opponents say as many as 500,000 jobs can be lost. For California's stalled economy, opponents of the agreement see it prolonging the recession while proponents say it will provide the one sure road to economic recovery.

Opponents insist NAFTA will encourage businesses to relocate from this country to Mexico. Proponents maintain that with the reduction in Mexican tariffs under NAFTA, plants in this country will expand and hire more workers to keep pace with increased exports to Mexico. To find balance and consensus in this crossfire of claims and counterclaims is elusive.

I do not believe we should gamble with the livelihood of American workers with an agreement, the consequences of which are so problematic. Frankly, I had hoped the side agreements to NAFTA would resolve some of my concerns, but I find them weak, inadequate, and difficult to enforce. They provide no real teeth to compel enforcement of environmental protections; nor do they give Mexican workers the right to organize, bargain collectively, and withhold their labor—basic rights taken for granted in work forces throughout this country. Nor does NAFTA even make the smallest effort to raise a deplorably low minimum wage in Mexico so that there could be a level playing field.

It was my hope that the agreement would contain a reopener provision, whereby any shortcomings or adverse impacts could be corrected as we go and 3 years down the pike we could take a look at how California was impacted. But this agreement is forever; it cannot be amended if there are mistakes. And I have been around negotiators enough in my life to know they make mistakes. They cannot be corrected. Sure, Congress can cancel the agreement with 6-month notice. That is not going to happen. You and I both know that.

Furthermore, there is nothing in the agreement under which Mexico would enforce its own borders. Even studies by supporters of the agreement, such as the one by Philip Martin of the Institute of International Economics, expect an increase in illegal immigration into this country as the Mexican economy turns to manufacturing and displaces those Mexican agricultural workers whose crops are inefficiently grown. California is already spending $3 billion a year to provide for illegal immigrants, and 50 percent of the immigrants in this Nation reside within the borders of California.

I applaud the intentions of NAFTA to bring trade barriers down and open the world's market to freer trade. I have long advocated free trade. As Mayor of San Francisco, I led trade missions to China, Japan, Taiwan, Hong Kong, the Philippines, and Australia. I established relationships with Shanghai, Manila, and other major trading centers around the Pacific rim.

The negotiations on the General Agreement on Tariffs and Trade can still result, if we are willing to be tough, in a substantial lowering of tariffs throughout the world. And California can still thrive in global markets.

I, for one, will continue to fight for expanded markets and opportunities for industries and businesses in my State, to work with business people, industrialists, and investors to help them expand foreign markets for goods and services. But the time could not be worse. They say everything we do is opportunity and timing. What do you do with 1.5 million people out of work? What do you do when unemployment insurance is not extended for workers unemployed for more than 6 months? What do you do when hiring halls have 50 percent of their members unemployed? What do you do when you have big automobile plants and you have lost every one? It is difficult to take a gamble with so many people out of work.

I want to end with a statement. I read an interesting paper by Akio Morita, chairman of Sony. What he said is: "I fear that America cannot remain a world power if it loses its manufacturing base."

I see NAFTA as a major challenge to the manufacturing blue collar job base of this country that enables a laborer, a bricklayer, a machinist, an electrician, a plumber to buy a home, to educate their kids, and, yes, to even send them to college.

I yield the floor and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Montana.

Mr. President, I may not use all of the 10 minutes at this late hour in the evening. But I have been listening. I intend tomorrow to engage more directly and thoroughly in this debate. But I must respond to some of the things that have been said here this evening, because I find them offensive in many ways.

First of all, let me begin by saying that there are a lot of people claiming credit for the vote last evening in the House. Certainly President Clinton and others deserve a great deal of credit for the victory. But I think any discussion and debate of this issue must begin by commending the Chief Executive of the State of Mexico, Carlos Salinas. He has done more in the last 5 years than anyone else to bring us to the point we are today. When the history of this time is written, the name of Carlos Salinas, in my view, will be recorded among the great liberators in the Americas in the last 500 years. He has put everything on the line and radically changed the economic life of his country. He has dealt with social and political problems beyond the imagination of most people in this country.

I hope that people, as they discuss this issue and talk about our neighbor to the south, will keep in mind those changes and the efforts being made in Mexico to improve the quality of life for their people. We are not without fault, Mr. President. As I listen to these debates and when I see the photographs of the cardboard shacks in Mexico, I, too, could bring out photographs of shacks in my own State of Connecticut—in Hartford, New Haven, or Bridgeport. I see my colleague from Illinois. She can probably show photographs of Mother Cabrini Village in the State of Illinois or of the Bronx in New York or of south central Los Angeles.

How would we like it if in a debate in the Congress of Mexico, Mexican Senators were to stand up and show photographs of our country and our shortcomings and our flaws? Mexico is a nation struggling for its future, fighting to improve the quality of life of its people. And yet some people here speak with such arrogance about Mexico. They talk about the drug issue and say that Mexico is not doing enough in this area. I would ask, who the devil do you think they were selling the drugs to? It is not Mexican kids sticking needles in their arms and sniffing cocaine; it is in the rich suburbs in some of our cities and in the ghettos of our urban areas, that kids are doing these things. The people speak as if this was Mexico's fault. Because we had an addiction we could not cure, we blame Mexico for that problem.

People talk a great deal about corruption in Mexico. My God, hardly a day goes by that we do not read about a political scandal in this country in one place or another. What sort of arrogance is this, to be talking like that about a neighbor and a government that is trying to improve the quality of life? We sat here a few years ago considering most-favored-nation status for Romania and the People's Republic of China. The idea of comparing Mexico to China is outrageous? Does anybody really believe that that is a legitimate comparison? I think it is ridiculous to compare a totalitarian government that deprives its people of even the basic freedoms with our neighbor to the South, which is trying to achieve freedom and democracy for its people. It is insulting to hear that kind of discussion on this floor.

Mexico is a good neighbor, a neighbor that is trying desperately to make a difference for its people, and we ought to pay attention to the changes in Mexico and talk about how we can encourage more of them.

But we are not for NAFTA because it is good for Mexico. I agree with my colleague from California. None of us are Senators from Mexico. We represent our respective States and constituencies. I am a Senator from Connecticut, and my first responsibility is to my constituency.

I happen to believe that this agreement is good for the citizens of my State, and there is more than adequate proof to demonstrate that conclusion.

I also happen to believe this agreement is good for my country, because it opens up markets and expands opportunities. I will not sit by quietly while some pretend that only NAFTA opponents care about working people. I am proud of my record here for 14 years. I fight for working people. I think this agreement is good for the working people of my State—for the people who work in the machine shops and industrial centers of Connecticut.

The idea somehow that we do not care about what happens to the laid-off people in our State is unfounded; 200,000 Connecticut residents lost their jobs in the last 3 years. I care deeply about what happens to them. I wish I could magically provide a job for them tomorrow. I cannot.

I am almost tired of talking about training programs and diversification and conversion, because I know at the end of the road for some there really is no job. They may have better training, but not a job.

I do not believe that this NAFTA is necessarily going to produce jobs immediately, but it offers the hope that an expanded market will expand employment in our country. That is the essence of this. That is why it is good for us.

Let me just underscore what our colleague from New Jersey has said, and believe me when I tell you this. If you think somehow there is opportunity for a better NAFTA, you do not know our neighbor to the south, you do not know the Mexican people, you do not know the Mexican Government. They will go back to the old ways. There is no doubt in my mind. They will be returning to the days of government-owned enterprises, of controls on prices and wages, the very things that my colleagues are talking about. You will see a degradation of the environment. You will see child labor once again.

If that is what you want, then reject this agreement. That much I can guarantee you. That much I can predict for you. Vote against this, and that is what you are asking for. You are shutting the door to an expanding market, jobs for our own people and almost guaranteeing that our neighbor to the south will go back to its old ways. The Senator from New Jersey is absolutely correct in that regard.

This is not a leap of faith. This is not some great big chance we are talking here. This is an opportunity for us. This is our future. And Lord willing we will have an agreement that will reach out to some of these other Latin countries with improving conditions, such as Chile, Argentina, Bolivia, Brazil, Colombia, Venezuela. Such an agreement could encourage the other countries in the hemisphere to open up, change their ways, and move forward.

Mr. President, I remember a few years ago there were those who suggested that we should not have an arms control agreement with the Soviet Union because they were being too tough on the issue of Soviet Jewry. Yet we discovered once we had an arms control agreement that the very thing we worried about in human rights changed. A million people left the Soviet Union after the arms control agreement.

I would suggest to you here that if we enter into this agreement the very problems in Mexico that are being raised tonight about Mexico will actually improve. With NAFTA, there will be a greater chance that we will be able to have some impact and influence on the very issues that have been discussed.

Many of my colleagues—some of whom I see on the floor tonight—stood with me during the 1980's when we battled over El Salvador, Nicaragua, and Guatemala; 70,000 people lost their lives in El Salvador and 30,000 in Nicaragua. Many of us on this side of the aisle argued that it was not Marxism or Communism that created those revolutions. It was the social, economic, and political injustice that created the environment for revolution. We argued that if we would invest and begin to work on some of those areas we could eliminate the kind of problems that exploded into violent revolution.

I believed it in the 1980's. I believe I was right.

It is disappointing for me today to hear some of the people who stood with me then, now suggest when we have the opportunity to make a difference economically in this country that we should turn our backs on the very option that we argued for for so long.

So, Mr. President, I hope that as we debate during the remaining hours of this issue we would be temperate in our rhetoric when describing our neighbor to the south. They deserve much better than they are getting from some of our colleagues on the floor of the U.S. Senate.

Apart from the United States and Mexico, there have only been two other examples of industrialized nations sharing a common border with developing nations in the world—South Africa and its neighbors and Israel and its neighbors.

There have certainly been problems between the United States and Mexico. But nonetheless, we are a shining example of how two nations with different cultures and economies can live together and improve their relationship. We have certainly done far better than the other two examples.

My hope is we would hear some rhetoric during this debate about the good that is being done today in Mexico. We should also hear more about the benefits of the North American Free-Trade Agreement for workers in the United States. I see this agreement as a winner for Canada, a winner for Mexico, and a winner for the United States, and I urge its passage.

The PRESIDING OFFICER. The Senator's 10 minutes are concluded.

Mr. DODD. I thank the colleague from Montana.

The PRESIDING OFFICER. Who yields time?

The Senator from South Dakota.

Mr. BRADLEY. Mr. President, will the Senator from South Dakota yield for a brief unanimous-consent request?

Mr. PRESSLER. Mr. President, if it is a brief unanimous-consent request, I will do so.

PRIVILEGE OF THE FLOOR

Mr. BRADLEY. Mr. President, I ask unanimous consent that Fritz Meyer be allowed the privileges of floor throughout the debate on NAFTA.

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

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield myself 10 minutes out of our time.

The PRESIDING OFFICER. The Senator from South Dakota has 10 minutes.

Mr. PRESSLER. Mr. President, I rise in strong support of the NAFTA.

I felt strongly as we entered the 1990's that GATT would go forward, NAFTA would go forward, and we would have more free trade. By free trade I mean fair trade.

Opening markets is being discussed at the APEC meeting which is going on this morning in Seattle with the Asian countries. But much of our trade with Asian countries is not free trade. We allow them to bring products here, yet they only take what products they want. Fortunately, they are importing a lot even with that. Much still needs to be done.

With China we have an immense deficit. I knew something was wrong when I was in Malaysia recently, and saw copies of the movie Jurassic Park for sale for $15. When I told Jack Valenti of the Motion Picture Association that, he became very upset because it is not available on VHS in this country yet.

The point I am making on intellectual property and computer programs is that a lot of countries do not pay U.S. companies for intellectual property.

Next week I am going to Spain to attend an economic conference under a new foundation set up by John Brademas. I have discovered in preparing for the conference that the Spanish take a lot of our computer programs and do not pay us for them.

So the point is there is a lot of unfair trade in the world, and the United States is a most generous country. At some point we have to have free trade.

This NAFTA agreement moves us in that direction. We have to trade. Free trade is the road to prosperity. There has never been any country or group of countries that have prospered in the long run by putting up tariff barriers. Indeed the Smoot-Hawley tariff may have led to the Great Depression.

Many years ago when I was a student in England, I wrote a paper with some professors on free trade. Although it is a painful thing, although it is much criticized, it is the way to prosperity for most countries. This can be seen from the time of the Germany trade unions when they broke down the protective barriers to modern times.

So I make that as a basic presumption. Certainly we should have free trade with our neighbors. I know there has been a lot of problems with Canada on wheat imports, but those are not problems of NAFTA. Those are problems of transportation subsidies and unfair pricing tactics. Those problems must be solved separately.

Small business in this country will benefit greatly. I serve as ranking member of the Small Business Committee, and perhaps no sector of our economy will benefit more than small business because small business is exporting and it must export.

We are in a situation that free trade and free enterprise are the key to the 1990's, and I fear that the GATT Treaty will not go forward. I fear very much that the protectionism of France in agricultural products and the protectionism of the rest of Europe will prevent us from going forward.

The president of the National Corn Growers recently wrote me a letter suggesting that the price of corn will be from 9 to 18 cents a bushel higher if NAFTA goes forward. The vast majority of all agricultural producer groups in the United States have endorsed NAFTA. The Farm Bureau has endorsed NAFTA; the cattlemen and the meat producers have endorsed NAFTA. My State of South Dakota exports 70 percent of its wheat and the wheat growers have endorsed NAFTA.

Now there is a problem with organized labor. Someone said, "Why has organized labor not endorsed NAFTA?" I think this is the reason. I think the leadership of organized labor is out of touch with the rank and file working people. NAFTA will mean higher wages and more benefits to all workers, union and nonunion. Most economists agree with that.

The labor leaders do not want higher wages for everybody because they will have a more difficult time organizing and getting people to join unions. And that is the truth of it. That is a hard one for them to admit.

But labor leaders actually want lower wages and chaos and suffering so they can organize easier. But organized labor will do fine. They will have to work harder and compete for members. They will have to show people reasons to join. As membership in organized labor has declined, they have become hysterical in trying to find ways to head off prosperity, because prosperity means less people will join labor unions.

I am not necessarily against labor unions, but I have been amazed at this phenomenon, the hysterical way organized labor has opposed this agreement. And the way they have threatened to cut off campaign funds to Members who do not vote with them, the way they have made outlandish statements against this agreement is something that should be analyzed.

What organized labor is really afraid of is that NAFTA will help wages rise in the United States, and they will have a harder time getting members to join their unions and they will have to work harder. I say to them they can still get their members, but they are going to have to compete and work harder like we all do.

Mr. President, I would conclude by saying that we should go forward with NAFTA and vote for NAFTA—I shall vote for NAFTA—because we have higher goals, higher ideals.

Anyone can criticize this agreement. The easy thing to do is to vote against it and then spend the next 3 or 4 years criticizing every part of it. The easy route is to vote against it, now that it is going to pass anyway, and say for the next 3 or 4 years everything that is wrong, that people are wrong or any trade adjustments that have to be made to make a big criticism about it.

But I say we should take the higher road, the more difficult road, and move towards free and fair trade with Mexico and with Canada. When it is all said and done, the Europeans are going to go their way with their trade agreement; the Asians, under APEC, are probably going to go their way.

We need a free trade zone between Canada, Mexico, and the United States. I hope someday we can extend that all the way throughout South America—a free trade zone of the Americas. That is the dream I have.

The Europeans, because of the French protectionism and the German protectionism and the unwillingness of the Europeans to compete, are going to keep us out of their markets, but it is also going to lead to a class of European economies. Because, unless they are willing to compete, I see a movement toward the Asians under APEC and so forth, the new tigers and the old tigers, when they get into real competition to form their own trade area.

But we will meet that competition with the best free trade zone in the world—Canada, the United States, Mexico and, hopefully, more of South America and Latin America. So, there will be many bumps along the path.

Let me say, I respect President Clinton's courage in this area. And I say that as one who has said some critical things about President Clinton on this floor.

I salute the large number of Republicans in the House of Representatives last night and the smaller number of Democrats who joined them to make this decision. This is both a Republican and a Democratic victory.

The President of the United States has taken on part of his basic constituency, organized labor, and also the environmentalists. I fear very much that the President will want to repay organized labor—I hope he does not—with all sorts of things, such as movement on the striker replacement and other legislation that they are trying to pass.

But I think he has gained a new respect in this country. I want the President of the United States to be successful. I want the President of the United States, a Democrat or a Republican, to have a good Presidency.

It was suggested to me that, next week in Spain, I be critical of the President as we begin an analysis. But I believe in the Vandenberg concept; that, once you go outside the United States, you do not criticize the President of the United States. And I am going to say positive things about him as a visiting Senator.

I do not mean you should not speak your mind. But I think the President has shown great courage on this trade agreement and he has drawn a lot of respect from me, from one U.S. Senator, that was not there before.

So, let us go forth and pass NAFTA. Let us insist on fair treatment. Let us insist on using our comparative advantages and letting them use theirs. Let us insist that Canada not use transportation subsidies for wheat or other things. There are many battles down the road. And in the next 4 or 5 years, we are going to hear the people who voted against it say, "I told you so," and so on and so forth. It is going to be a tough road, but it is the right road and it is the one we should be taking.

Mr. President, I ask that a fact sheet on South Dakota and NAFTA, a list of South Dakota groups supporting NAFTA, a letter from the National Corn Growers, a letter from the American Farm Bureau, and a letter from former U.S. Trade Representatives be printed in the RECORD at this point.

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

SOUTH DAKOTA AND THE NAFTA

Canada and Mexico are important export markets for South Dakota.

Canada and Mexico are South Dakota's first- and fifth-largest export markets. South Dakota's exports to Canada and Mexico were worth $122 million in 1992, 221 percent greater than the 1987 level of $38 million.

Manufactured exports to Canada and Mexico support an estimated 3,578 jobs in South Dakota. Approximately 2,419 of these have been created since 1987 by growth in South Dakota's manufactured exports to Canada and Mexico.

South Dakota's exports to Mexico are growing.

South Dakota's merchandise exports to Mexico have increased by 40 percent since 1987, rising from $5.4 million to $7.5 million.

Increased trade with Mexico since 1987 has benefited important South Dakota industries, and 8 sectors have seen their exports to Mexico more than double since 1987. Examples: transportation equipment up 27,414 percent to $1.4 million; fabricated metal products up 276,512 percent to $426,000; industrial machinery and computers up 189 percent to $1.7 million; and livestock up from $0.0 million to $399,000.

Reduction of trade barriers under the NAFTA will greatly benefit South Dakota's leading export industries.

For food products ($2.5 million in 1992 exports to Mexico), NAFTA will reduce tariffs of 10-20 percent and eliminate non-tariff barriers such as import licenses.

For industrial machinery and computers ($1.7 million in 1992 exports to Mexico), NAFTA will eliminate tariffs (e.g., 10–20 percent for computers), improve protection of intellectual property, and open up Mexican government procurement.

For transportation equipment ($1.4 million in 1992 exports to Mexico), NAFTA will open up Mexican government procurement and eliminate Mexican tariffs, quotas, and local content requirements (which require the use of Mexican instead of U.S. manufacturing components) on auto parts.

For electric and electronic equipment ($272,000 in 1992 exports to Mexico), NAFTA will eliminate tariffs of up to 20 percent, open up Mexican government procurement, eliminate nontariff barriers in technical standards, and increase intellectual property protection.

NAFTA will open up Mexican markets to South Dakota farmers by, for example, eliminating import licenses on corn and wheat, and eliminating tariffs (e.g. cattle, 15 percent; beef, 20–25 percent; slaughter hogs (non-pedigree) and pork, 20 percent; sorghum and soybeans, 15 percent (seasonal); oats; 10 percent) either immediately or over time.

NAFTA contains detailed provisions to eliminate barriers to trade in services, including liberalization of licensing requirements and other restrictions, that will help South Dakota banking, insurance and other financial services, telecommunications, and engineering and construction companies win more business in the $146 billion Mexican services market.

Commitments to clean up environmental hazards and improve environmental protection in Mexico and the border area will stimulate demand for South Dakota pollution control equipment and services.

South Dakota's textiles businesses will benefit from NAFTA's tough rules of origin for textiles and apparel, which ensure that non-NAFTA countries cannot use Mexico or Canada as an export platform into the U.S. These rules provide a strong incentive for manufacturers in all three NAFTA countries to source more textiles in North America, rather than overseas.

Increased exports to Mexico because of NAFTA mean more high-paying jobs for South Dakota.

94 percent of South Dakota's exports to Mexico are manufacturing exports, which provide jobs paying 17 percent more on average than the average U.S. wage.

NAFTA will lock in the South Dakota jobs already generated by trade with Mexico, and create new jobs that will offset any job losses by more than nine-to-one.

SOUTH DAKOTA SUPPORTERS OF NAFTA

South Dakota Farm Bureau.
South Dakota Pork Producers.
South Dakota Stockgrowers.
South Dakota Cattlemen Association.
South Dakota Retailers Association.
South Dakota Soybean Association.
South Dakota Wheat Growers Inc.
South Dakota Wheat Growers, Assn.
Minnehaha County Cattlemen's Association.
Aberdeen Development Corporation, Aberdeen, SD.
Air Products and Chemicals, Inc., Rapid City, SD.
Aman Collection Service, Inc., Aberdeen, SD.
American Delta Life, Watertown, SD.
AuriCHLOR, Inc., Rapid City, SD.
Best Business Products, Sioux Falls, SD.
Black Hills Forest Resource Association, Rapid City, SD.
Citibank, Sioux Falls.
Dakota Pride Cooperative, Winner, SD.
Daktronics, Inc., Brookings, SD.
Direct Transit, Inc., Sioux City, Iowa.
First State Bank of Warner, Warner, SD.
Fremar Farmers Coops, Inc., Marion, SD.
Frito-Lay, Inc., Aberdeen, SD.
Graco, Sioux Falls, SD.
Industry & Commerce Association of South Dakota, Pierre, SD.
Interbake Foods, North Sioux City, SD.
J.D. Byrider of Sioux Falls, SD.
M-tron Industries, Inc., Yankton, SD.
Magnum Diamond, Inc., Rapid City, SD.
Merillat, Rapid City, SD.
Midcom, Inc., Watertown, SD.
Morgen Manufacturing Co., Yankton, SD.
Northwestern Travel, Sioux Falls, SD.
Orthodontics, Sioux Falls, SD.
Pacer Corporation, Custer, SD.
Pizza Hut, Sioux Falls, SD.
Pope & Talbott, Inc., Spearfish, SD.
Pred's Coats, Aberdeen, SD.
Purina Mills, Inc., Platte, SD.
Rapid City Area Chamber of Commerce.
Reecy Farm Supply, Dell Rapids, SD.
Rosco Manufacturing Co., Madison, SD.
Shanzer Grain Dryer Division of D. & W. Industries, Inc., Sioux Falls, SD.
State Bank of Alcester, Alcester, SD.
Stone Container Corporation, Sioux Falls, SD.
Syncom, Mitchell, SD.
Terra Industries Inc., Sioux City,
Tescom Corporation, Watertown, SD.
The Farmers State Bank of Estelline, Estelline, SD.
The Princor, Financial Services Corporation, Sioux Falls, SD.
Watertown Monument Works, Inc., Watertown, SD.
Governor Walter Dale Miller.
South Dakota Department of Agriculture.
Sioux Falls Argus Leader.
Huron Daily Plainsman.

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, November 15, 1993.

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

DEAR SENATOR PRESSLER: Thank you for meeting with me last Thursday regarding the North American Free Trade Agreement (NAFTA). You are to be commended for your strong support of NAFTA.

As we discussed, if NAFTA passes, corn sales have the potential to increase fourfold in the first year of the Agreement to 2.5 million metric tons. That duty-free amount will increase by 3% per year over 15 years, with total free trade occurring at that time. The good news for corn doesn't stop with bulk sales because the value-added market in Mexico is vast, particularly in beef, pork, and poultry. Sales of these commodities result in the use of even more corn and just as importantly, create sorely needed jobs in rural America.

Mexico is a nation of 85 million consumers who love U.S. products. The average Mexican citizen spends more on American products than citizens in any other country. We simply cannot afford to turn our backs on this valuable market. If NAFTA is defeated, there is no question Mexico will turn to the EC, Japan, Australia or other countries to buy many of their products. Agriculture and rural America will be the big loser if NAFTA is defeated.

The National Corn Growers Association (NCGA) is working to create this market that will increase the price of corn between 9 and 18 cents a bushel. If we can be of assistance to you on this or any other issue, please don't hesitate to call.

Sincerely,

KEITH HEARD,
Executive Vice President.

FARM BUREAU,
Washington, DC, November 12, 1993.

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

DEAR SENATOR PRESSLER: On behalf of America's farmers and ranchers and the four million Farm Bureau member families, I wish to take this final opportunity to express our strong support for the North American Free Trade Agreement (NAFTA) and to urge you to vote for its implementation.

There are few new arguments that can be made on either side of the NAFTA debate, but I would urge you to carefully consider several crucial points.

NAFTA is in our national interest. It will help us retain our preeminent position in the world economy; its defeat would stun the world and help to elevate other countries and blocs as major forces in world trade.

NAFTA will strengthen our bilateral ties to Mexico and enable us to better deal with the many issues raised by NAFTA's opponents; its defeat would leave us with no leverage, no tool and no goodwill to resolve those problems.

NAFTA will create new jobs in the United States and protect the 700,000 jobs Americans now have as a result of exports to Mexico; its defeat could put many of those workers at risk. While there are adjustment assistance programs for people who lose their jobs to imports, there is no such program for people put out of work because we lose export markets—and there are people at risk in every state, if Mexico turns to other nations for its growing import needs.

NAFTA will protect our agricultural exports to Mexico; its defeat could turn our wheat sales over to Canada, France or others, our soybean sales over to Brazil, our beef sales over to Australia, our pork sales over to Denmark and on and on.

The warning sounds if NAFTA is rejected are loud and clear. We urge you not to ignore

them, and to vote for NAFTA and for a strong, efficient and competitive economy.

Sincerely,

DEAN KLECKNER,
President.

NOVEMBER 15, 1993.

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

DEAR SENATOR PRESSLER: We write to express our strong support for the North American Free Trade Agreement (NAFTA). As President Clinton has repeatedly stated, the NAFTA will help create new, better paying jobs in the United States.

As former United States Trade Representatives, we know how difficult it is to open markets, reduce tariff and non-tariff barriers, and strengthen intellectual property rules and enforcement abroad, as the NAFTA does. And yet we also know that exports are critical to the health of the American economy. Since 1988, the expansion of U.S. exports has been responsible for nearly 75 percent of our economic growth. Today, over seven million Americans owe their jobs to exports, and export-related jobs pay 17 percent more than the average U.S. wage.

Mexico is a very important market for U.S. entrepreneurs: it is our third-largest export market, and has surpassed Japan as our second-largest market for manufactured exports. Indeed, our exports to Mexico have been booming. Since 1987, U.S. merchandise exports to Mexico have more than tripled to $40.6 billion in 1992. At the same time, our trade balance with Mexico has shifted from a $6 billion deficit to a nearly $6 billion surplus. Today, exports to Mexico support more than 700,000 good U.S. jobs.

With the NAFTA, U.S. exports and jobs will continue to grow. The NAFTA opens up sectors of the Mexican economy—automotive, petrochemicals, and services such as construction, transport, and telecommunications—that are currently closed to U.S. producers. It eliminates tariffs on industrial and agricultural goods, protects U.S. copyrights, trademarks, and patents, and establishes an effective forum for resolving trade-related disputes between the United States, Mexico, and Canada.

Opponents claim that the NAFTA is an invitation to U.S. companies to relocate jobs to Mexico. In fact, the opposite is the case. There is nothing in the agreement that encourages companies to move; indeed, bringing down high Mexican trade barriers gives U.S. firms an unprecedented opportunity to sell to Mexico without having to move to Mexico. Without the trade agreement, many U.S. firms must move to Mexico to jump high trade barriers and gain access to the vibrant Mexican market.

President Salinas has done more to open the Mexican economy than any previous Mexican leader. The NAFTA will lock in many of these changes before his term ends in 1994. A strong Mexico strengthens our hand in fighting drugs, reducing illegal immigration, and protecting the environment. A stronger Mexican economy creates a more stable neighbor.

The NAFTA represents the efforts of decades of work between the United States and our neighbors. We urge you to support this historic agreement.

Sincerely,

Carla A. Hills, Clayton Yeutter, Bill Brock, Reubin O'D. Askew, Robert S. Strauss, Fred Dent, Bill Eberle, William M. Roth.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier today, at the meeting of the Committee on Finance, a number of Senators asked the administration if it would be possible to have a complete set of letters that had been exchanged with Members of the House or Senate regarding the NAFTA agreement. The administration said it would be and that they would supply them.

I have here a letter from Ira Shapiro, the General Counsel who was present on that occasion, saying, in response to the request made by Senator RIEGLE and by me, that we have here enclosed copies of letters from administration officials, prepared in connection with the NAFTA debate, stating administration policy and objectives on a number of trade issues. Mr. Shapiro has also enclosed copies of letters sent by the administration to the Government of Mexico concerning sugar and frozen concentrated orange juice which have previously been transmitted to the Congress, along with the NAFTA and the supplemental agreements.

I ask unanimous consent that these letters be printed in the RECORD at this point so that there be a full statement of any such understanding.

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

OFFICE OF THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, November 18, 1993.

Senator DANIEL P. MOYNIHAN,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MOYNIHAN: In response to the request made by Senator Riegle and you during my appearance before the Finance Committee this morning, I am submitting to the Committee a set of letters from Administration officials, prepared in connection with the NAFTA debate, stating Administration policy and objectives on a number of trade issues. I have also enclosed copies of letters sent by the Administration to the Government of Mexico concerning sugar and frozen concentrated orange juice, which have previously been transmitted to Congress along with the NAFTA and the supplemental agreements.

Sincerely,

IRA S. SHAPIRO,
General Counsel.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Colonia Condesa, Mexico.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegations of the United States of America and the United Mexican States with respect to the implementation of the Schedule of the United States to Annex 302.2 of the North American Free Trade Agreement ("NAFTA").

1. When the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange for each of five consecutive business days is less than the most recent five-year average price for the corresponding month, the United States may apply a rate of customs duty to goods provided for in Harmonized System subheading 2009.11 that are originating goods that qualify to be marked as a good of Mexico in excess of 70 million gallons, single strength equivalent, during calendar years 1994 through 2002, and 90 million gallons, single strength equivalent, during calendar years 2003 through 2007.

2. Any rate of customs duty applied under paragraph 1 shall be no longer greater than the lesser of—

(a) the most-favored-nation (MFN) rate as of July, 1991; or

(b) the prevailing MFN rate.

3. The United States shall cease to apply the rate of customs duty specified in paragraph 2 if the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange exceeds for each of five consecutive business days the most recent five-year average price for the corresponding month.

4. The term "frozen concentrated orange juice" means all products provided for in Harmonized System subheading 2009.11.

5. The term "nearby contract month" means the closest month in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange.

6. The term "five-year average price for the corresponding month" means the price determined by reviewing the monthly average of daily closing prices for the five most recent years, eliminating the highest and lowest monthly average prices and calculating the simple average of the remaining three monthly averages.

7. This agreement will enter into force on January 2, 1994 and terminate December 31, 2007 or as provided for in Article 2205 of the North American Free Trade Agreement, whichever is earlier.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAMES SIERRA PUCHE,
Secretary of Commerce and Industrial Development, Colonia Condesa, Mexico.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegation of the United States of America and the United Mexican States with respect to the implementation of Annex 703.2 of the North American Free Trade Agreement ("NAFTA").

Section A of Annex 703.2 of the NAFTA provides in part for market access between the United States of America and the United Mexican States with respect to "trade in sugar and syrup goods." The text generally provides, reciprocally for the United States and Mexico, that market access in sugar and syrup goods depends to a certain extent on whether the two countries have determined whether either has been or is projected to be a net surplus producer. "Net surplus producer" is defined as a Party that has a net production surplus.

"Net production surplus", in turn, is defined as "the quantity by which a Party's domestic production of sugar exceeds its total

consumption of sugar during a marketing year, determined in accordance with [Section A of Annex 702.3]."

High fructose corn syrup is readily substitutable for sucrose sugar syrups, particularly in such uses as soft drinks. Such substitution could result in effects not intended by either Party. Accordingly, the United States of America and the United Mexican States agree that the determination of "net production surplus" for purposes of Section A of Annex 703.2 shall include consumption of high fructose corn syrup provided for in Harmonized system subheadings 1702.40, 1702.50 and 1702.60.

In addition, notwithstanding the provisions of paragraph 15(b) and (c) of Section A of Annex 703.2, the ceiling for each of the seventh through 14th marketing years shall be 250,000 metric tons, raw value, and paragraph 16 of Section A of Annex 703.2 shall not apply.

I would also like to take this opportunity to affirm the provisions in paragraph 6 of Section A of Annex 703.2 which provide that each Party may count the in-quota quantity under a NAFTA tariff rate quota toward the satisfaction of in-quota quantity commitments undertaken by the Party as a result of the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments, to enter into effect upon the entry into force of the NAFTA for the United States and Mexico and to remain in effect through the fourteenth marketing year for such time as they remain parties to the NAFTA.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Mexico City, Mexico.

DEAR JAIME: As you know, several United States industries have expressed an interest in obtaining more rapid elimination of tariffs on goods traded between the United States and Mexico than currently provided for in the NAFTA. I am sympathetic in particular to the U.S. producers of wine and brandy, flat glass, home appliances and bedding components such as springs, iron rails and wooden parts.

I believe the quick initiation of a tariff acceleration exercise, as called for in Article 302.3 of the NAFTA, would provide an excellent demonstration of the advantages of a trade relationship governed by the NAFTA. As a result, I am requesting your agreement to announce that the United States and Mexico will begin the first round of tariff accelerations in January 1994, immediately after the NAFTA is implemented, with intention of completing the exercise as soon as is feasible, but in any case in no more than one hundred and twenty days.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 15, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to confirm the Committee's understanding that the United States Trade Representative and Mexico have agreed to meet immediately after January 1, 1994 to discuss the acceleration of the tariff reductions on a number of U.S. goods, including flat glass, and that these negotiations must be concluded within 120 days. I also confirm the Committee's expectation that the good faith negotiations of USTR and the Mexican government will produce a satisfactory agreement for all affected industries. Finally, I agree to the Committee's request that USTR issue a report to the Congress on the outcome of these tariff acceleration discussions within 30-45 days following the conclusion of the negotiations.

Sincerely,

MICHAEL KANTOR.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ENGLISH: I have been briefed on the discussions that you have had recently with representatives of the U.S. Customs Service with regard to enforcement of tariff preference requirements in the NAFTA. The Administration understands your concern that non-Mexican agricultural products, including beef, wheat, and peanut products, may be illegally transshipped through Mexico into the United States under a false certification that they are actually products of Mexico.

In response, I am writing to assure you that Customs will implement enforcement actions to counter transshipment of agricultural commodities, especially peanuts and meats. Specifically, Customs will initiate the following continuing enforcement programs: at least ten visits to agricultural processing sites in Mexico; continuing audits of at least ten major agricultural products exporters; and investigations of suspected violations that may be uncovered through this process.

These site visits, audits, and investigations will be conducted under the new verification authority contained in the NAFTA, as well as under the authority of the current Customs Mutual Assistance Agreement with Mexico, a copy of which has already been provided to you. These actions will begin on the date of NAFTA implementation.

I also concur with your strong feelings that Customs will need a devoted cadre of auditors, import specialists, and agents to fulfill its commitment to country of origin enforcement under NAFTA. As a result, I can assure you that 350 such positions, in an appropriate mix to be determined by Customs, will be so assigned. This number will include at least 100 newly hired employees.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR GLENN: I want to respond to the concerns you raised regarding imports of peanuts and peanut products from Canada as they relate to the North American Free Trade Agreement (NAFTA).

I know that peanut growers are concerned about imports of peanut butter and peanut paste as well as quality standards for peanut products. I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the increase in imports of peanut butter and peanut paste and agree on appropriate quality standards for peanut products. I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions, and in such quantities as to render or tend to render ineffective, or materially interfere with, the peanut program of the Department of Agriculture. I am also requesting the USITC to give precedence to this investigation. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

Regarding the issue of quality standards for imported raw peanuts, Secretary Espy informs me that under the Food, Agriculture, Conservation and Trade Act of 1990—as affirmed in the proposed NAFTA implementing legislation—all peanuts, whether shelled or in-shell, imported into the United States will be inspected and handled as provided in, and fully comply with, Marketing Agreement No. 146.

I trust these actions and assurances will enable you to support the NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR GLENN: I want to respond to the concerns you raised regarding the trade of wheat and the North American Free Trade Agreement (NAFTA).

Our mutual objective is to create a free and fair environment for the trade of wheat in North America. I am committed to making the NAFTA a reflection of the realities of the North American wheat market and ensuring that the benefits of the Agreement will accrue to U.S. wheat producers as intended. I know American wheat farmers would welcome a North American market free of barriers and distortions.

I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the negative effects of their subsidy practices, including transportation subsidies and Canadian Wheat Board pricing practices (such as, the pricing of milling quality wheat). I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, an investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the wheat program of the Department of Agriculture. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

With respect to end use certificates, NAFTA implementing legislation mandates the Secretary of Agriculture to require such certificates for wheat and barley imports from a country that itself requires end use certificates for those grains. The purpose of this requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs. I am instructing

the Secretary of Agriculture to act quickly to implement this requirement, and to make certain that it is effectively administered.

We are also working with the Government of Mexico to ensure wheat trade in North America is not distorted by unfair subsidy practices, and trade remedy laws will be effectively utilized to deal with this problem. In that context, it is my intention that the working group we are requesting be created under the NAFTA, to deal with issues relating to North American wheat trade, meet at least quarterly to review pricing and other policies that affect wheat trade in North America. We will also request that the Working Group on Agricultural Subsidies give particular attention to the elimination of all export subsidies affecting wheat trade between the parties.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 16, 1993.

Hon. HENRY A. WAXMAN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WAXMAN: The President has asked me to respond to your letter to him regarding your decision to oppose the North American Free Trade Agreement (NAFTA). I was surprised by your decision, particularly because the reasons you give are primarily related to concerns about the environment.

I believe your opposition to the NAFTA package submitted by the President would be a grievous mistake. Approval of the NAFTA and the accompanying package of environmental and labor measures will advance the cause of environmental protection in the United States and the rest of North America. By contrast, rejecting it would be a setback for our country, our economy and our efforts to enhance protection of human health and the environment throughout our continent.

I have enclosed more detailed comments on the particular points you raise in your letter, because it seems that your criticisms are based on misconceptions of the NAFTA and the supplemental agreements, and of their effect on our existing relationship with Mexico. Certain points, however, warrant particular emphasis.

First, the NAFTA and the side agreements mark a major step forward in showing that the economic growth and development we seek for the United States and our neighbors by opening markets and expanding trade can be accompanied by enhanced environmental protection and cooperation. The NAFTA itself is the most environmentally sensitive trade agreement ever negotiated, including protection not only for our own environmental laws, but also for major international environmental agreements, as well as commitments to greater transparency and to refrain from relaxing environmental laws to attract investment. We have gone further in the environmental side agreement and in the bilateral agreement on border funding. Those agreements will encourage improved environmental laws and enforcement of those laws, lay a strong base for continued cooperation on the many transborder issues, and bring needed financial resources to improving the health and environment of the border. As the Natural Resources Defense Council said in announcing its support, "The Clinton Administration has successfully linked strong environmental measures, for the first time, to international trade and economic integration."

Second, rejecting NAFTA would not immunize our laws protecting health and the environment from trade challenge, as your letter seems to suppose, but rather will leave all such measures subject to challenge under the rules and processes of the GATT. The NAFTA's rules and dispute settlement processes are more environmentally sensitive than those of the GATT, owing largely to the significant role of environmental groups in advising U.S. negotiators of the NAFTA. At the suggestion of environmentalists, the United States insisted on the right to force any GATT challenge by Mexico or Canada about U.S. standards to be heard instead in the NAFTA.

Finally, it is a tempting but dangerous illusion to think that rejection of this NAFTA package will soon be followed by a replacement agreement which somehow keeps the virtues of the present accord while adding additional advantages in the different ways various critics see NAFTA as falling short of their respective ideals. The NAFTA package is the product of more than three years of tough negotiations under two U.S. Presidents. It is easy to forget that Mexico, which has its own history of mistrust of the United States, has committed to moving an enormous distance and in unprecedented ways in these negotiations.

The sometimes acrimonious debate in the United States, in which criticism has too often had more vehemence than logic or consistency, could hardly serve to encourage Mexico to quickly re-engage in negotiations with the United States. Even if there were such a disposition (and President Salinas has said there is not), we face a crowded domestic and international agenda, and Mexico will quickly be embroiled in the campaign to choose President Salinas' successor. In short there is neither time nor disposition to remake the NAFTA package, let alone to remake it in a way that keeps its virtues for the United States while satisfying all of the diverse and even conflicting critics.

This NAFTA package represents a once in a generation opportunity. It would be a tragic loss to reject this excellent deal because it falls short of the ideal, when the alternative will be to leave us with an unhappy or even deteriorating status quo.

Environmentalists from six major environmental groups, representing a majority of environmentalists in this country, understand that. As Kathryn Fuller of the World Wildlife Fund said on September 15 when endorsing NAFTA, "Our support of the NAFTA and the Agreement on Environmental Cooperation boils down to this: ultimately, the environment of North America will be better with the passage of NAFTA than without it."

I know and respect you as an individual deeply committed to the environment. For that very reason, I hope you will consider carefully the points raised in this letter and its attachment before casting your vote on Wednesday. I am convinced that a yes vote is the right vote for our country's future, including sustainable economic growth, enhanced environmental protection, and more and better jobs for our workers.

Sincerely,

MICHAEL KANTOR.

POINT-BY-POINT RESPONSE

Assertion: NAFTA opens the door to challenges to our health and safety standards.

Fact: This assertions misreads the NAFTA and its effect on the status quo in two ways: First, it appears to confuse the ability to challenge a U.S. law with the ability to win such a challenge. Second, NAFTA does not "open the door" to trade challenge. Those laws could be challenged now under the rules of GATT. Under NAFTA those U.S. laws are less likely to be challenged and a challenge is even less likely to succeed.

U.S. laws, such as the Clean Air Act, set requirements that are legitimate protections of the environment and food safety. They are not disguised restrictions on trade nor do they arbitrarily or unjustifiably discriminate against another country's goods and products. Because our laws are based on science and legitimate efforts to protect health and safety, they would not be successfully challenged under NAFTA.

The Consumers Union, which publishes Consumer Reports and has taken no position on the NAFTA, recently wrote to Reps. Matsui and Wyden saying "We have examined NAFTA's likely impact on food safety, and believe that the agreement offers adequate protection in this area."

NAFTA is intended to prevent a country from erecting protectionist barriers under the guise of health and safety standards. The fact is, some of our trading partners resort to this tactic. For example, one country prohibits imports of U.S. walnuts, purportedly because of coddling moth. However, there is no scientific basis for this barrier to U.S. exports since our shelled walnuts are not a host for coddling moth. Similarly, another of our trading partners has banned the importation of some of our wheat, claiming it contained prohibited pesticide residues, even though thorough evaluations by FDA scientists and six other scientific institutions in three countries unequivocally concluded it did not.

Many of the provisions cited as problematic are obligations the United States has lived under for years, both under the General Agreement on Tariffs and Trade (GATT) (in force since 1948) and the Standards Code (in force since 1980).

So, it is incorrect to say that "Mexico could for the first time challenge a U.S. law." Mexico or Canada can challenge a U.S. health standard right now under the GATT. Again, that does not mean they would win.

Assertion: NAFTA expressly requires the entire dispute settlement process to be shrouded in secrecy.

Fact: The NAFTA's dispute settlement procedures are not like a U.S. court case. The NAFTA dispute settlement mechanism is designed to help the NAFTA parties resolve their differences amicably, first through consultations and negotiations. Although panel hearings, like those of the GATT and our free trade agreement with Canada, are confidential, the Administration will follow its normal procedures of consultations with relevant Congressional committees and interested private parties during the course of such discussions, soliciting their views and keeping them fully abreast of developments.

If consultations fail, the NAFTA provides for non-binding arbitration. The panel of arbitrators is made up of private citizens, not judges, who will have expertise in international trade matters particularly germane to the case at hand. These panels have no authority to make "rulings," bind the parties, or order changes in the domestic law. The most they can do is recommend. Once those recommendations are tabled, it is up to the parties to decide—through further negotiations and consultations—what is to be done.

Although Canada and Mexico will have the right to maintain the secrecy of their own briefs, the United States has taken a commitment to make copies of its own submissions to international trade dispute settlement panels available to the public. This practice will continue under the NAFTA. Furthermore, the Administration has committed in its Statement of Administration Action to the fullest possible participation of state government representatives in all aspects of dispute settlement proceedings affecting their interests, including state government participation in panel hearings themselves.

In preparing briefs, the United States will continue its practice under the GATT and the U.S.-Canada Free Trade Agreement to give public notice of the dispute, receive comments on the dispute from interested parties, and solicit advice and input from relevant private groups in preparing U.S. briefs and oral arguments to dispute settlement panels. States or local governments whose laws are challenged will be part of the U.S. team defending the measures.

The NAFTA explicitly calls for the publication of panel reports (Article 2017) and explicitly provides for dissenting opinions (Article 2017) (1) & (2)).

Finally, as EPA Administrator Browner testified last week, the Administration is fully committed to transparent dispute settlement procedures under the environmental supplemental agreement.

Assertion: Most decision-makers would have little understanding of health or environmental laws.

Fact: NAFTA dispute settlement panelists cannot be characterized as "decision-makers". As noted above, panelists are private citizens whose role is to make non-binding findings and recommendations to the participating governments. Panelists have no power to "decide" anything for the parties or to compel any behavior.

Furthermore, the NAFTA does *not* require or favor the selection of panelists with trade as opposed to environmental or health expertise. In fact, the NAFTA explicitly states that NAFTA panelists may have expertise in ". . . law, international trade, or other matters covered by the Agreement . . ." Article 2009. Those matters obviously include health and environmental laws.

The administration has specifically committed under section 106(c) of the NAFTA implementing bill and in the Statement of Administrative Action to encourage the appointment of environmental experts in any panel convened to consider a U.S. environmental law. In addition, the NAFTA creates a unique mechanism, the "scientific review board," to assist panels in any case in which they need help in addressing environmental or other scientific issues.

The fact is that NAFTA, the implementing bill, and the environmental supplemental agreement contain numerous proenvironmental safeguards and procedures. The NAFTA package represents a true advance for environmental protection in an international trade context.

As the National Wildlife Federation has said, "NAFTA and the environmental side agreements clearly represent our best hope for coming to grips with trade and environmental issues in North America."

Assertion: The NAFTA enshrines GATT panel decisions that are unfavorable to the environment.

Fact: This assertion is based on the flawed assumption that GATT panels make "decisions" that are "enforced" and further assumes that the United States has agreed, or will agree, with the panel report on "tuna-dolphin."

It is disconcerting to see the flawed reasoning of the panel report in the tuna-dolphin dispute with Mexico portrayed as fact. That report has *not* been adopted by the GATT, much less put into effect in the United States. Indeed, this whole issue is currently being re-visited by another panel where the United States has refuted in detail the previous panel's reasoning. To imply that adverse GATT panel findings on this subject have somehow been carried into the NAFTA appears to pre-judge the outcome of the second proceeding.

If there are problems with the GATT panel reports, they must be fixed in the GATT. The NAFTA, which only applies among three countries, cannot fix the GATT rules or reports, which apply to over 100 countries. Our ability to accomplish reform of the GATT rules, either during the coming weeks in the Uruguay Round or in more substantive reforms in the coming years, will be seriously undermined if the Congress turns its back on the NAFTA. Our trading partners are watching closely; they will work with us if they know that our country is seriously committed to *both* trade liberalization and environmental protection.

To charge that the NAFTA somehow places at risk U.S. laws against the use of destructive driftnets is not accurate. Neither Canada nor Mexico use driftnets in their fisheries and thus would have no incentive to challenge U.S. laws against their use. Furthermore, Mexico has significantly improved its efforts to protect dolphins so that its dolphin protection is now roughly equivalent to, or in some cases even better than, that for the U.S. fleet.

Assertion: The NAFTA will not allow the United States to use trade sanctions under international environmental agreements.

Fact: The NAFTA is the first international trade agreement to protect precisely that right.

The NAFTA specifically exempts from trade the use of trade measures under the Montreal Protocol and other major international environmental accords. Making these agreements take precedence over NAFTA's trade rules—and over the GATT—is a major, precedent setting step forward in the effort to link environmental protection and trade. Furthermore, the NAFTA specifically provides for including additional agreements, including future agreements, in this list. In fact, we recently reached agreement with Mexico and Canada to add our treaties on migratory birds to the list.

The United States is committed to pursuing vigorous international environmental agreements. As later-in-time agreements, future Mexico agreements that include NAFTA countries would prevail over the NAFTA in the event of any conflict. Moreover, as noted in the Statement of Administrative Action submitted to the Congress, we do not foresee any conflict between the requirements of the NAFTA and the trade obligations imposed by the environmental agreements listed in Article 104 or by other agreements not currently listed.

Assertion: Even if the NAFTA has some good environmental provisions, future Administrations might not defend U.S. environmental laws as vigorously as this one.

Fact: This is an argument for abandoning all international trade agreements, since this one is by far the most pro-environment in history.

The NAFTA contains important, groundbreaking, specific provisions to protect the environment. The NAFTA is not a choice between promoting trade and threatening the integrity of U.S. environmental laws; it is just the opposite. The NAFTA itself begins with a commitment to promoting trade "in a manner consistent with environmental protection and conservation" and with the commitment of the NAFTA countries to promoting sustainable development. And the new institutions created under the supplemental agreements will help solidify U.S. commitments to environmentally sensitive trading regimes.

No one can guarantee what a future Administration, or a future Congress, will do. But this is no reason for abandoning the progress we have made in the NAFTA and leaving us solely with trade agreements that do not adequately take the environment into account. Taken to its logical conclusion, such an argument would suggest that we should abandon the world trading system that has contributed so greatly to this country's prosperity over the past 45 years.

Assertion: The NAFTA does not guarantee an increase in Mexican minimum wages.

Fact: While it is correct that the NAFTA does not guarantee that average Mexican wages will rise with productivity, the labor supplemental agreement fully addresses such concerns. The very day in mid-August that we initialled the supplemental agreements, President Salinas announced that increases in productivity will result in proportional increases in the Mexican minimum wage. This measure was subsequently adopted by Mexico's Wage and Price Board and is now binding law in Mexico. Moreover, increases in the minimum wage, linked to productivity, will echo throughout the Mexican economy because, unlike in the United States, many Mexican labor contracts and wages are expressed in terms of multiples of the minimum wage.

The supplemental agreement on labor cooperation obligates countries to enforce their own laws, including laws and regulations related to minimum wage. In the event that Mexico persistently failed to abide by this minimum wage policy, the United States would be able to pursue dispute settlement procedures—including the possibility of trade sanctions—under that agreement. In short, the Mexican commitment is a genuine commitment, and the U.S. has recourse to dispute settlement should Mexico fail to take it seriously.

The vast economic development generated by trade since 1945 increased wage rates wherever trade has been the greatest. It is well to remember that Japan and Germany were denounced only a few years ago as unfairly low-wage producers. No one makes that argument any more and yet those two countries continue to account for a very substantial amount of our trade deficit. Mexico, by contrast, is a net importer of U.S. products.

Assertion: The Administration did not bind the supplemental environment agreement to the NAFTA.

Fact: This statement is simply wrong.

We note at the outset that there is more than a little incongruity between an assertion that the supplemental agreement is inadequate and a complaint that the Administration did not do enough to make sure that it remains in force.

Section 101(b)(2) of the implementing bill provides that the NAFTA will not enter into force for the United States with respect to either Canada or Mexico unless that country has provided for the entry into force of the supplemental agreements on the environment and labor.

Furthermore, in the Statement of Administrative Action submitted to the Congress, the Administration specifically committed that if Canada or Mexico withdraws from a supplemental agreement on a non-consensual basis the United States will cease to apply the NAFTA to that country. With respect to the United States, if a further President were to terminate a supplemental agreement, Congress has more than sufficient authority to ensure that the United States could no longer apply the NAFTA as well. If NAFTA is rejected, the precedent-shattering environmental supplemental agreement will never even have a chance to prove its value.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 9, 1993.

Hon. JOHN CONYERS,
Chairman, Committee on Government Operations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to confirm that the procurement chapter of the North American Free Trade Agreement specifically excludes from coverage set-asides on behalf of small and minority businesses. As noted in the Statement of Administrative Action, this exclusion exempts from the chapter's rules U.S. Government procurement programs such as those which give preference to small businesses, business concerns and private and voluntary organizations owned or controlled by women or socially and economically disadvantaged individuals, historically black colleges and universities, and colleges and universities with substantial Hispanic or Native American enrollment.

These programs currently include, but are not limited to, those set forth in the following statutes: the Small Business Act, as amended (P.L. 85-536); section 1207 of the National Defense Authorization Act of 1987, as amended by subtitle A of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484); section 402 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399); the Foreign Operations, Export Financing and Related Programs Appropriations Act for Fiscal Year 1989 (P.L. 100-461); appropriations for the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies for Fiscal Year 1991 (P.L. 101-507); appropriations for energy and water development for Fiscal Year 1993 (P.L. 102-377); sections 126, 136 and 301 of the Foreign Relations Authorization Act for fiscal year 1990 and 1991 (P.L. 101-246); sections 505(d) and 511(h) of the Airway and Airport Safety and Capacity Expansion Act of 1982, as amended (P.L. 97-248); section 106 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100-17), section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240), Title X of the Clean Air Act Amendments of 1990 (P.L. 101-549), section 3021 of the Energy Policy Act of 1992 (P.L. 102-486) and Title IV of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 (P.L. 102-233).

Sincerely,

MICHAEL KANTOR.

THE WHITE HOUSE,
Washington, November 16, 1993.

DEAR JOHN: Thank you for your letter of November 10 concerning the Uruguay Round, NAFTA and questions concerning Customs Service enforcement of trade agreements affecting textiles and apparel. While I appreciate your concerns, I believe NAFTA will be a strong, positive opportunity for the textile and apparel industries and workers of the United States.

Let me respond to each of the points you have raised. First, regarding the enforcement of NAFTA, we believe the Customs Service procedures set out in the agreement are one of its strongest features, and a major improvement over the provisions of the U.S.-Canada Free Trade Agreement. I can assure you that I am committed to effective enforcement of NAFTA, and I am happy to work with your specific suggestions in order to ensure that you and other members are satisfied that the agreement will be properly implemented.

In response to your request regarding Customs Service funding, I can assure you that we will dedicate an additional $15 million supplement to the enforcement of textile and apparel regulations and rules, as well as related competitiveness trade matters. A substantial majority of these funds will be used for an increased number of audits, criminal investigations, identification of high risk shipments and "Jump Team" activities. Out of these added funds, Customs will provide for an additional 50 import specialists, agents, and inspectors to work exclusively, to the extent practical under the circumstances, on textile/apparel enforcement other than NAFTA. I will ensure that the Customs' commercial program associated with both the enforcement of NAFTA and other textile and apparel enforcement will be held harmless from our government-wide effort to reduce employment levels.

With respect to NAFTA enforcement efforts, I can pledge to you that the Customs Service will hire 136 new employees, fifty of whom will be dedicated to enforcing textile and apparel rules and regulations. Many of these new employees will be stationed along the Southwest border to handle the increased activity produced by NAFTA. Others will be placed where they can best be used to enhance our trade enforcement efforts.

Assuming NAFTA is passed, Secretary Bentsen assures me that we will have at least 50 new auditors, 41 import specialists, 25 additional agents, 10 new analysts and 10 new inspectors. These personnel are being recruited to improve our ability to ensure that our Customs rules, including particularly the rules of origin for textiles and apparel, are enforced.

The other suggestions you have made are within the administrative authority of the Customs Service, and I am pleased to consider implementation of your suggestions, with some minor modifications, as a way to ensure the integrity of the NAFTA agreement. The Customs Service will commit to issuing by April 1, 1994 proposed regulations on your suggestions for extension of the redelivery period, changes to the mitigation guidelines and issuance of certificates of origin/textile declarations on non-NAFTA qualifying shipments. Naturally, these proposed regulations would have to be subject to the normal administrative and legal procedures for issuing proposed regulations. But you should know that I am less certain of the merits of the suggestion for submission of these certificates "well in advance" of the goods arrival. This proposal must be reviewed with an awareness of possible burdens on the importing community.

Also Customs would be prepared to establish through a directive the necessary procedures for all U.S. Customs Districts, as well as foreign offices, to provide a monthly report to the Commissioner on all textile transhipment cases under investigation; and all results from Jump Team reports; seizures and shipments denied entry including the quantity and value of such shipments; and any indictments or fines and penalties with all appropriate details concerning the violation. As you are aware, U.S. Customs and the Committee for the Implementation of Textile Agreements (CITA) have recently signed a Memorandum of Understanding (MOU) detailing the types of information that will be provided in transhipment cases. U.S. Customs is committed to providing as much information as possible through this new procedure.

As to the Uruguay Round, I appreciate the difficulties faced by the textile and apparel sector in that negotiation. I am quite aware of the difficulty in asking the textile and apparel industries to agree to the phased elimination of the quote system and substantial tariff cuts simultaneously.

First, you mentioned the transition period for the phase out of the multifiber Arrangement and the implications for many nations, given the dominance of countries such as China in the marketplace. Let me note that we have pursued a very aggressive posture toward China in our bilateral textile discussions with them, due to the difficulties we are having with transhipment and overshipments from China. In addition, China would not be afforded the increased growth in its quotas provided for in the draft Uruguay Round agreement unless and until it becomes a full member of the General Agreement on Tariffs and Trade and agrees to open its markets to U.S. textiles and apparel.

With respect to the duration of the phase-out period, I can pledge to you that we will do all we can to achieve the longest possible phase-out period. I will ask Ambassador Kantor to explore the prospect of a 15-year phase out with those nations that you believe favor it, such as the ASEAN and Caribbean nations and Ireland: If we find sufficient support among these nations for 15-year phase-out period, we will put on the table, with their support, a proposal for a 15-year phase out, and will seek to negotiate acceptance of such a proposal. Failing that, we will work for acceptance of the longest-possible phase-out period that we believe can be achieved.

Second, we intend to work closely with the affected industry groups to ensure that the impact of the Uruguay Round is eased to the maximum extent possible, including specifically addressing the question of gradual and even staging of tariff reductions and quota integration. With respect to tariffs, this Administration has made it clear that the tariff cuts for textiles and apparel must be phased in over a longer period than many of the other tariff cuts in this Round and we have insisted that the tariff cuts should be staged over a period at least as long as the phase out of the MFA. As I mentioned, I do recognize and appreciate that the U.S. textile and apparel sector has been asked to make substantial concessions in the Uruguay round, and I am sympathetic to this request.

With respect to the integration of textiles and apparel into the GATT, we do not intend to integrate sensitive products until the end of the phase-out period. We will examine very carefully the sensitivity of products in our market, and we will work with the industry and interested members of Congress to determine which products should be left for integration at the end of the phase-out period.

Third, I am informed that the U.S. and EC industries have tried to put aside their differences on the subject of wool tariffs, and to work to find common ground and I do commend the industries for their leadership. While the EC Commission has not accepted at this point that the industry's discussions on the tariff issue merits their agreement, I would note that these discussions are still ongoing. If the industry's efforts are ultimately successful, we will work with the U.S. interests to ease to the extent possible the impact of any agreed-upon tariff cuts and would not anticipate going substantially beyond our current proposals on sensitive products.

Finally, we fully agree that effective market access commitments must be made by countries participating in the Round, both to reciprocate for our agreement to the phased elimination of the Multifiber Arrangement and to fulfill the commitment entered into at the outset of the Round that all participants would bring all measures under the discipline of the GATT.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC, November 15, 1993.

Hon. TOM LEWIS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN LEWIS: This is in response to the concerns you expressed to me about establishing a mechanism for protecting Florida tomato growers against import surges from Mexico.

I want to assure you that H.R. 3450, the proposed NAFTA implementing legislation, contains an effective price- and volume-based snapback provision to deal with increased imports of fresh tomatoes and peppers. Specifically, Section 316 requires the U.S. International Trade Commission to monitor imports of tomatoes and peppers for 10 years. The purpose of this provision is to provide for an expedited determination concerning import relief for these commodities. Such monitoring would include both the price and volume of imports of these products. If these imports surge, current law authorizes the President to provide emergency import relief for perishable agricultural products, including these monitored products, within 28 days after an industry files a petition. This mechanism would allow us to provide for a snapback of tariffs reduced under the NAFTA. The relief provided may remain in effect for 3 years.

I hope that this provision will enable you to support approval of the NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC.

Mr. BOBBY F. MCKOWN,
Executive Vice President, Florida Citrus Mutual, Lakeland, FL.

DEAR MR. MCKOWN: I am very much aware of your concern that concessions on citrus fruit and juices in the Uruguay Round, when combined with tariff phase-outs to which we are committed under the North American Free Trade Agreement, could impair Florida's ability to remain competitive in citrus production. Therefore, I want to assure you that the Administration will not agree to tariff cuts in the Uruguay Round that are greater than 15 percent ad valorem on the following sensitive items:

08051000—Oranges, fresh and dried; 08052000—Mandarins, tangerines, satsumas: clementines, fresh or dried; 08054040—Grapefruit, fresh or dried entered from 8/1–9/30; 08054060—Grapefruit, fresh or dried, entered in October; 08054080—Grapefruit, fresh or dried, at any other time; 20091100—Orange juice, frozen, not containing added spirit; 20091920—Orange juice, not concentrated or frozen; 20091940—Orange juice, not frozen, without added spirit, other; 20092020—Grapefruit juice, not concentrated, no added spirit; 20092040—Grapefruit juice, not containing added spirit, other.

In addition, I will recommend to the President that he not use his authority under 19 U.S.C. 2463 to designate these items as "eligible articles" for purposes of the Generalized System of Preferences program.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

THE UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC.

Mr. MICHAEL J. STUART,
Executive Vice President and General Manager, Florida Fruit and Vegetable Association, Orlando, FL.

DEAR MR. STUART: I want to respond to the concerns raised by the Florida Fruit and Vegetable Association regarding the North American Free Trade Agreement (NAFTA) and other developments affecting your industry.

Let me first respond to your concerns about the possible trade impact of NAFTA and other agreements. With regard to any potential harm from future increases in imports, I want to assure you the Administration will vigorously utilize the early warning import surge mechanism negotiated under NAFTA with respect to tomatoes and sweet peppers. I will also expedite any request for relief under the fast-track provisional relief procedures of Section 202(d) of the Trade Act of 1974. Since your products will, as a result of the NAFTA implementing bill, already be under the U.S. International Trade Commission (ITC) monitoring this will ensure a quick resolution of any such request. If, after investigation, the ITC determines that imports of tomatoes or sweet peppers are a substantial cause of serious injury, or threat thereof, to the domestic industry, I will recommend to the President that he proclaim provisional relief for the industry.

I am also very much aware of your concern that concessions on tomatoes and sweet peppers in the Uruguay Round, when combined with tariff phase-outs to which we are committed under the (NAFTA), could impair Florida's ability to remain competitive in the production of these crops. Therefore, I want to assure you that the Administration will not agree to tariff cuts in the Uruguay Round that are greater than 15 percent ad valorem on the following sensitive items:

0702.00.2000—Tomatoes, fresh/chilled, entered 3/1–7/14, inclusive, or 9/1–11/14, inclusive, in any year; 0702.00.4000—Tomatoes, fresh/chilled, entered 7/15–8/31, inclusive, in any year; 0702.00.6000—Tomatoes, fresh/chilled, entered 11/15, in any year, to the last day of the following February, inclusive; 0709.60.0040—Fruits of the genus Capsicum (peppers), other than chili, fresh/chilled; 0705.11.2000—Head lettuce, fresh/chilled, 11/1–5/30, inclusive; 0705.19.4000—Lettuce, not head lettuce, 11/1–5/30, inclusive; 0707.00.2000—Cucumbers, fresh/chilled, entered 12/1–last day of February, inclusive; 0707.00.4000—Cucumbers, fresh/chilled, entered 3/1–4/30, inclusive; 0707.00.5000—Cucumbers, fresh/chilled, entered 5/1–6/30, inclusive, or 9/1–11/30, inclusive; 0709.40.2000—Celery, fresh/chilled, reduced in size; 0709.40.6000—Celery, fresh/chilled, not reduced in size 8/1–4/14, inclusive; 0709.90.4070—Sweet corn, fresh/chilled.

In addition, I will recommend to the President that he not use his authority under 19 U.S.C. 2463 to designate these items as "eligible articles" for purposes of the Generalized System of Preferences program.

I know you are concerned about the expansion of Caribbean Basin Initiative (CBI) benefits in the region. As you may know, the countries currently eligible for CBI benefits are listed in the statute. I want to assure you that with regard to possible new participants in CBI because of developments in the hemisphere, we will not grant benefits on fruits and vegetables to any new entrant that would adversely affect your industry.

You have expressed an interest in participating in the Market Promotion Program (MPP) for enhancing agricultural exports by promoting U.S. agricultural goods in foreign markets. Since this program is administered by the U.S. Department of Agriculture, I have discussed your interest with Secretary Espy. The Secretary informs me that in order to be eligible for this program, your organization must make formal application and demonstrate a readiness to match promotion funds which would be provided by USDA. If your organization meets all the requirements, your application will be seriously considered by the Secretary.

I understand that you are concerned that there be adequate inspection by the Food and Drug Administration (FDA) of imported fruits and vegetables from Mexico. I have been advised by the FDA that they constantly monitor the level of imports of FDA-regulated products. The FDA has committed that if it sees a significant increase in imports from Mexico, it will adjust the import program devoted to inspection of these imports accordingly.

Insofar as Florida's representation on the Agricultural Policy Advisory Committee (APAC) and the Agricultural Technical Advisory Committee for Fruits and Vegetables (ATAC) is concerned, I would welcome the continued service of your association's representatives on these Committees. I will recommend to the President that such representatives be appointed.

I also want to respond to concerns you have raised with respect to several non-trade issues. First, regarding methyl bromide replacement, I have spoken with Secretary Espy and I want to assure you that the Administration is committed to full funding of research for alternative soil and post harvest substances that can be used for both soil and post-harvest fumigation. The Administration recognizes the potential harm to your industry and others unless a satisfactory solution is found, and the President has asked me to assure you that this effort will be given a very high priority. Attached is a breakdown of our current spending on such research in Florida, and Secretary Espy and I want to assure you that this research will be continued, and if necessary expanded in future years.

Under the proposed EPA regulations now being finalized for methyl bromide, there will not be any restriction on the manufacture or use until the year 2000, by which time we hope to have satisfactory alternatives. The President wants to assure you that if no

satisfactory alternative is found, the Administration will consider appropriate action to guarantee that our agricultural producers are not left without a commercially viable means of achieving the necessary soil and post-harvest fumigation. Given the critical nature of this substance to our trade interests, you can be certain of my personal involvement in this matter to ensure that your commercial interests are not affected by any future restrictions.

With respect to the re-registration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Administration has already proposed legislation to accommodate your concerns. We are willing to work actively with you to secure the earliest possible enactment of this legislation.

I am pleased to report that Secretary Espy is prepared to continue and expand purchases of fresh vegetables for the school lunch program, including a doubling of the purchases for fresh tomatoes and new purchases of sweet corn. In order to accomplish this, he will work with your industry to put in place the necessary changes in the current system to accommodate fresh vegetables. The Secretary is also committed to the completion of the U.S. Horticultural Research Station in Fort Pierce, Florida. The new facility is in the design stage and is expected to be completed in FY 1998 at a cost of $33 million. We will complete the construction of this facility and ensure its full funding. Once completed, this facility will expand considerably the number of research scientists working on vegetable research.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

RESEARCH ON METHYL BROMIDE ALTERNATIVES IN FLORIDA AGRICULTURAL RESEARCH SERVICE U.S. DEPARTMENT OF AGRICULTURE

Methyl bromide (MB) is a halogenated hydrocarbon used as a soil fumigant to control insects, weeds, and soil pathogens affecting production of vegetables and other crops and as a post-harvest fumigant for pest disinfestation of fruits for export and import. EPA has banned the use of MB by the year 2000 because of its ozone depletion potential.

Loss of MB as a soil and post-harvest commodity fumigant will adversely affect crop production in the United States and export/import trade between the U.S. and its trading partners. The development of alternative technologies to the use of MB is one of USDA's highest research priorities.

The Agricultural Research Service (ARS) of USDA carries out a $7.4 million research program (FY 1993) on MB alternatives at a nationwide network of research laboratories in fifteen States. An additional $1.0 million is planned for FY 1994, for a total of $8.4 million. ARS research programs in Florida on MB alternatives are:

Fiscal year 1993 base program:	
Orlando, Florida:	
Soil-borne diseases of citrus: detection and control	$204,000
Post-harvest quarantine treatment of fruits and vegetables for pest disinfestation	361,000
Miami, Florida:	
Post-harvest quarantine treatment of fruits and vegetables for pest disinfestation	1,232,000
Fiscal year 1993 total	1,797,000
Fiscal year 1994 program increase (additional to fiscal year 1993 recurring base program):	
Orlando, Florida:	
Control of soil-borne pests of tomatoes and peppers through development of resistant hosts, biological control agencies, and cultural practices	250,000
Fiscal year 1994 total	2,047,000

E.B. KNIPLING,
USDA/ARS.

NOVEMBER 8, 1993.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 7, 1993.

Hon. BILL ARCHER,
Ranking Republican, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE ARCHER: Thank you for your letter of September 23, 1993. As you know, I greatly appreciate your strong and longstanding support for the NAFTA. I also appreciate this opportunity to address the important issues that your letter addresses, particularly to dispel unjustifiable concerns that have been expressed about the effect of the NAFTA supplemental agreements on U.S. and state sovereignty.

In negotiating the supplemental agreements, the Administration sought to strike a delicate balance. On the one hand, we wanted to put in place mechanisms to help ensure that our NAFTA partners, particularly Mexico, would effectively enforce their own environmental and labor laws. At the same time, we were constantly mindful that the United States would have to live with anything that we asked Canada and Mexico to accept. Consequently, we had no intention of fashioning supplemental agreements that intruded on our sovereignty.

The supplemental agreements struck that delicate balance. They provide needed additional assurance that Mexico will enforce its environment and labor laws, by committing Mexico to strengthen its administrative and judicial procedures and to provide Mexican citizens with access to legal processes to help enforce Mexican laws. They also create a mechanism through which one NAFTA country can challenge a pattern of nonenforcement of the laws by another country. However, U.S. sovereignty is fully protected in these agreements. We insisted that no supranational body could usurp the right of each country to set its own laws, nor could such a body enforce our laws in place of federal, state, or local authorities. We retain all our legislative, judicial, and administrative prerogatives for creating and enforcing our own laws.

The supplemental agreements unequivocally affirm these rights. They make it explicit that each country is free to determine its own levels of environmental and labor protection for its citizens. Article 3 of the environmental agreement commits each government to "ensure that its laws and regulations provide for high levels of environmental protection" and to "strive to continue to improve those laws and regulations." At the same time, Article 3 explicitly recognizes "the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations."

Similarly, Article 2 of the labor agreement commits the Parties to "ensure that [their] labor laws and regulations provide for high labor standards, consistent with high quality and productivity workplaces", and to "continue to strive to improve those standards in that light." At the same time, Article 2 explicitly recognizes each Party's right "to establish its own domestic labor standards", and its right "to adopt or modify accordingly its labor laws and regulations."

In sum, in the agreements the United States, Canada, and Mexico have committed themselves to ensuring that their laws and regulations provide for high levels of environmental protection and high labor standards; however, each country is free to establish its own laws and to modify them.

Finally, in both the environmental and labor agreements, we took steps to ensure that the commissions created would not preempt local, state and national enforcement authority. The Commission's role in enforcement is to determine whether a government has engaged in a pattern of nonenforcement. Neither the Commission nor its Secretariat can directly or indirectly enforce national or state and local laws.

Under the supplemental agreements, private citizens cannot initiate dispute settlement proceedings that could result in internationally authorized sanctions. Only governments can initiate such dispute settlement proceedings, by a two-thirds vote of the Council.

Private citizens can file submissions requesting that a factual report be prepared by the environmental Secretariat on enforcement concerns. The object of those proceedings is to examine such concerns through the development of a "factual record". Several provisions in the agreements are designed to guard against the Secretariat examining a particular matter if there are ongoing national or local enforcement proceedings or if the person filing the submission has failed to pursue available remedies. In addition, a matter cannot be submitted to the Secretariat unless the person making the submission has previously raised the matter in writing with the government concerned. (Env. Art. 14.)

These provisions do not constitute a rigid requirement for exhaustion of remedies, because a government interested in * * *.

The environmental Secretariat may request both public and non-public information that is in a government's possession. In addition, if the Secretariat requests information not in the possession of the government, the government must "take all reasonable steps" to make such information available. But no government is obligated to provide any information—such as business confidential information—that is protected from disclosure under its law or that could impede law enforcement. If a government or private party chooses to provide confidential information, both Secretariats must protect it from disclosure.

Furthermore, if a government believes that a request by the environmental Secretariat is unduly burdensome, it may notify the Council, and the Council can direct the Secretariat, by a two-thirds vote, to revise the scope of its request. (Art. 21, par. 2.) Ultimately, if a government refuses a request for information, it must explain the reasons why, in writing.

You are correct that under the NAFTA and the supplemental agreements the United States retains all its sovereign rights to take actions it considers necessary and appropriate to protect the welfare of its citizens.

The NAFTA explicitly affirms the right of each country (including states and localities) to establish its own levels of safety and

of protection of human, animal or plant life or health, the environment or consumers, and its explicitly affirms the right of each government to take measures to achieve those levels of protection. The supplemental agreements also make explicit that each government to take measures to achieve those levels of protection. The supplemental agreements also make explicit that each country is free to determine its own levels of environmental and labor protection for its citizens.

Finally, nothing in the NAFTA automatically preempts federal or state law—even where a NAFTA panel determines that a measure may be inconsistent with the agreement. The NAFTA makes clear that a government may choose to allow another country to suspend trade benefits (such as tariff concessions) against it following an adverse panel report, in lieu of changing its domestic law.

We agree that private rights of action against the federal or state governments should not be allowed with respect to the side agreements—or the NAFTA itself. Article 38 of the environmental agreement and Article 43 of the labor agreement specifically say that no private right of action should be allowed in one country against any of the other Parties on grounds of behavior alleged to be inconsistent with these agreements. We favor including in the NAFTA implementing bill a provision to bar private rights of action with respect to NAFTA and with respect to the side agreements, and we would be pleased to work with you to achieve satisfactory language.

While the supplemental agreement represents a significant step forward in environmental cooperation and protection, neither the supplemental agreement on the environment nor the NAFTA itself requires the United States to prepare environmental impact statements, or to change its existing law with respect to environmental impact statements. In the supplemental agreement, the three governments have agreed to assess environmental impacts "as appropriate." We already meet that commitment. As part of its workplan, the Council of the Commission on Environmental Cooperation, including the U.S. EPA Administrator, can make recommendations regarding environmental impact assessments. Such recommendations would not bind the United States; we would be free to decide whether to adopt them in accordance with our laws and procedures.

We agree that in these times of budgetary constraints, the Secretariats of the respective commissions must be efficient and no larger than necessary to get the job done. The supplemental agreement on labor specifically sets the initial number of staff positions in the Secretariat at fifteen, with any change requiring Council approval. (The Council includes the U.S. Secretary of Labor.) The environmental Secretariat has broader duties and will probably be somewhat larger. The supplemental agreements explicitly provide that Secretariats can use outside expertise. The Councils of the respective commissions will approve the annual plan of activities and budget of the commissions.

Finally, as you know, the NAFTA will be formally approved under the fast-track, since it is a trade agreement and was negotiated under fast-track procedures. We agree with your assessment that the environmental and labor side agreements are not trade agreements negotiated pursuant to fast-track procedures, and therefore we will not ask Congress to approve the supplemental agreements as trade agreements pursuant to fast-track. Funding for the Commissions should come out of existing revenues and be subject to the normal budgetary processes. We do not expect significant outlays for this purpose.

I look forward to continuing to work with you on the approval and implementation of the NAFTA.

Sincerely.

MICHAEL KANTOR.

THE WHITE HOUSE,
Washington, DC, November 13, 1993.

Hon. EDWARD J. MARKEY,
House of Representatives, Washington, DC.

DEAR ED: I am writing in response to your concerns regarding published reports that the new Canadian government is seeking to renegotiate energy commitments already made under the United States-Canada Free Trade Agreement (CFTA) and carried forward in the North American Free Trade Agreement (NAFTA).

We have not been directly approached by the Canadian Government regarding the renegotiation of any aspect of the NAFTA. I have made it clear that, while the United States and Canada have an ongoing dialogue on trade matters, we will not weaken or renegotiate any energy provisions of the CFTA or the NAFTA. Specifically, we will not allow the Canadians to opt out of the "proportionality clause" (or to limit its coverage solely to oil) which they agreed to in the CFTA and which was included in the NAFTA under paragraph (a) of Article 605.

As you know, the CFTA has fostered the expansion of energy trade between the United States and Canada in an environment of growing demand, competitive prices, and additional pipeline capacity. For example, for the fifth consecutive year, natural gas imports from Canada have reached record levels.

The CFTA has worked well for both Canada and the United States in the energy sector, and I am committed to preserving all energy agreements made in both the CFTA and the NAFTA.

Sincerely,

BILL CLINTON.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 10, 1993.

Hon. PETER HOEKSTRA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN HOEKSTRA: I am writing in response to your question concerning whether the North American Free Trade Agreement requires the United States to sell or permit the diversion of its water resources to Mexico or Canada. The short answer to your question is that it does not.

The NAFTA does not give Mexico or Canada—or businesses in those countries—any right to the water in our lakes or streams or any other publicly-owned water resources. The NAFTA rules on this subject are the same as those of the GATT and the U.S.-Canada Free-Trade Agreement, which have never been considered to entitle one country to divert water resources from another.

For decades, the United States has been a party to agreements with Canada and Mexico concerning the disposition of boundary waters. These agreements are not affected by the NAFTA and will continue to control relations between the United States and the other NAFTA countries on water issues.

Sincerely,

MICHAEL KANTOR.

Mr. MOYNIHAN. Mr. President, I observe the distinguished Senator from Illinois has risen.

Do I understand that she would wish to speak on this matter?

Ms. MOSELEY-BRAUN. That is correct.

Mr. MOYNIHAN. Might I ask for how long?

Ms. MOSELEY-BRAUN. Well, I will attempt to make it brief. I would hope no more than 10 minutes.

Mr. MOYNIHAN. I yield 10 minutes, if that is sufficient for her purpose. If not, there will be more time available.

Mr. President, I yield 10 minutes and such time as she may require in advance to the Senator from Illinois

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. BAUCUS. Mr. President, just a little bookkeeping clarification.

I believe, Mr. President—I do not want to make too much out of something that is not very much—but I think the Senator from Illinois is in favor of NAFTA and I think it more appropriate that the time should be charged against the proponents on the Democratic side.

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

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

I thank my friend, the Senator from New York, for his graciousness. We have been together on so many issues in the past that I think on this one he assumed that this would be another issue on which we would be together.

However, this issue, if nothing else, has divided people in curious kinds of ways. I have seen colleagues in the debate on this floor taking different positions based on their reading of this rather complicated issue.

But, Mr. President, I rise in support of the NAFTA. I am the product of a working class family. My folks had to work for everything to feed us, to keep us together.

From that background, I have reached the conclusion that the NAFTA is a good deal for America for three essential reasons.

The first, briefly stated, is that in the history of the world, when you remove trade barriers you increase trade. When you increase trade you create jobs. That is good for our country.

The second simply stated reason is the traditional notion that a rising tide lifts all boats. Certainly in this economy we can do with some rising tide. We need to expand this economy to promote job creation, to give our people the opportunity that so many of them fear is lost forever.

The third reason is simply that, it is that this debate about this agreement is whether we respond to our hopes for a brighter tomorrow, for job creation, or whether we will respond to our fears.

We heard an awful lot of fear on this floor. We have heard an awful lot of doubts and agonizing about whether or not there will be job loss, whether or not the NAFTA will hurt or help our country. * * * I believe this agreement is about preparing the United States for competition in the global marketplace. It is about confronting the fact that our economy is changing. In short, NAFTA is about our future, and about facing that future confidently and hopefully.

There is no doubt that international economic relationships are more closely intertwined than ever before. We can either prepare ourselves for this new global economic order, or we can try to maintain the status quo, which is futile, and which works to the disadvantage of American companies and American workers.

NAFTA is more than 1700 pages long, but if you cut through the complicated transitional rules designed to ease the process of change, the agreement is, at its heart, simple and rather modest. It eliminates Mexican tariffs, which are 2½ times greater on average than United States tariffs. And it eliminates Mexico's nontariff trade barriers, which include things like import licensing requirements for United States agricultural commodities, and requirements to establish plants in Mexico in order to do business in Mexico.

What did the United States give up to get this agreement? Almost nothing. The United States does not even have any major nontariff barriers to the import of Mexican products into the United States, or to Mexican investment in our country. So all we are really doing is eliminating tariffs on Mexican imports that average only 4 percent now, and which therefore keep no products of Mexican origin out of the United States.

And what will be the result of the agreement? Greater expansion of United States-Mexico trade, and greater exports of United States products to Mexico. That means growth in exports, and that means job growth in the United States.

One issue I would like to discuss at the outset, because I have heard more than a little discussion about the issue of the impact of the NAFTA on minorities. It has been referenced on this floor. Without the passion Senator DODD had in his speech a little while ago, I do want to speak about that because, frankly, I find the arguments by some NAFTA opponents that NAFTA will impact on minorities, and African-Americans in particular, in a more negative way is paternalistic and I would like to explore it. It is predicated that African-Americans and minorities in general are forever to remain in disproportionate numbers in the low-wage, low-skilled jobs that are vulnerable to being lost.

That arguments is wrong. It is wrong on facts, it is wrong on policy, it is wrong philosophically.

While it is true that our country has lost some low-skill low-wage manufacturing jobs to countries around the world, that has taken place without NAFTA. That has taken place without having this agreement in place. So killing NAFTA, therefore, will not change that phenomenon. Killing NAFTA will not protect American workers. It will not protect minority workers.

According to the President of the Joint Center for Political and Economic Studies which, as the President may know, is a prominent think tank on African-American issues—they examined the specific issue: Impact of NAFTA on minorities. Their statement was the fact is that NAFTA is more likely to create and protect jobs for minorities than to cause them to lose jobs.

This conclusion is based on the distribution of African-Americans throughout the various sectors of the labor market.

African-Americans are more likely to be in industries which will benefit from NAFTA. Mr. President, 9.3 percent of employees in the average industry exporting to Mexico are African-American. By contrast, only 7.4 percent of employees in the average industry competing with imports from Mexico are African-American.

Further, a large number of African-Americans are in service jobs, the great majority of which are not exportable. While representing 10 percent of the labor market, African-Americans are 15.2 percent of workers in public administration, 22.8 percent of those in building maintenance, and 26.4 percent of those in health service occupations.

Although I am not satisfied with this situation, and know we must work hard to open up every sector of our economy, tonight we are talking about the labor market and NAFTA, so it is important that we deal with the facts as they are, and not as some would speculate about them.

In manufacturing, African-Americans are disproportionately employed in the auto and auto parts industries, 13.4 percent of workers in transportation services are African-American. These industries will be among the first and biggest beneficiaries of NAFTA when Mexico removes its trade barriers.

There is no question that African-Americans were disproportionately affected in the last recession. The combination of discrimination and a contracting economy created intolerably large increases in African-American unemployment, a situation made even worse because every other group either gained or suffered little or no loss. Those statistics and conclusions were confirmed by a special investigation in a recent edition of the Wall Street Journal. And even now, although the recession has ended, African-Americans face unemployment of over 12 percent, twice as high as whites. However, all of that pain, all of that joblessness, happened with no NAFTA agreement in place. And is there anyone who really believes that defeating NAFTA now would help any minority American in any future recession? The answer to that is obvious. And the answer is "No".

We need to redouble our efforts to end discrimination, and to take full advantage of all of the abilities of every one of our people. President Clinton is committed to achieving these goals—and so am I.

We need policies that improve the education of our work force, that promote growth and development, and that enhance our international competitiveness. African-Americans, like other Americans, want the opportunity to succeed, and will benefit from the expanded opportunities to succeed. President Clinton is committed to improving education, to promoting growth and development, and to enhancing our international competitiveness—and so am I.

That is why the administration has proposed, and that is why I support, a transitional worker adjustment program in the NAFTA implementing bill. The legislation combines the best aspects of the Trade Adjustment Assistance Program and the Dislocated Worker Program. NAFTA impacted workers will get immediate assistance, including counseling, job placement assistance, job training, and additional income support for those enrolled in job training programs. When we return from recess, the administration will introduce a comprehensive bill for worker adjustment assistance regardless of the cause of job loss.

The truth is that NAFTA means increased trade, and increased trade means increased jobs for all Americans, and that includes African-Americans.

In fact, the liberalization now underway in Mexico that led to NAFTA is already producing benefits. Over the last 5 years, we have gone from a trade deficit with Mexico to a $5 billion plus trade surplus. Our trade deficits are with high wage countries in the East, countries that have already recognized the value of larger trading arrangements for global competition. NAFTA gives us a tool with which to meet in competition.

What does this mean for Illinois, and its businesses and workers? It means greater economic growth, more exports to Mexico, Canada and more jobs.

For example, Chrysler's Belvedere, IL, plant plans to export 5,000 additional Neon's if NAFTA is enacted, which means more U.S. jobs for all Americans. Mexico's current trade restrictions on import of American and

other autos into that country forces Chrysler and other United States auto manufacturers to locate in Mexico in order to sell in Mexico. These restrictions will be eliminated under NAFTA.

A small Chicago x-ray equipment manufacturer, Summit Industries, expects its exports to Mexico to explode if NAFTA is enacted. During 1989 to 1992, Summits' exports to Mexico grew by more than 500 percent. And that means more jobs for all Americans.

Deere & Co. in Moline, IL, currently faces Mexican tariffs in the range of 10 to 15 percent on its agricultural equipment and 15 to 20 percent tariffs on its construction equipment. Under NAFTA, these tariffs would be eliminated.

Caterpillar also faces the same restrictive Mexican tariffs on its products. Currently Caterpillar's East Peoria-built large bulldozer faces a 10-percent Mexican duty. Their Aurora, IL-built excavator faces a 20-percent Mexican duty. On some larger machines, Mexican tariffs increase the price of the product by as much as $40,000 to $60,000. With NAFTA, some of Caterpillar's products will be $40,000 to $60,000 cheaper in Mexico. With price savings like this, Mexicans will buy United States made products over comparable Komatsu or other Japanese-manufactured heavy machines. And that means more jobs for all Americans.

Nalco Chemical Co., which is the world's largest supplier of specialty chemicals and services in water purification and waste treatment, would benefit under NAFTA. One of their products, nalcolyte 8103, a chemical used to purify drinking water and remove pollutants from wastewater, would see its 15-percent Mexican tariff eliminated. The additional money being spent on environmental cleanup along the border and in Mexico will lead to increased demand for such products.

For every $1 million in increased sales, Nalco creates five new jobs. Nalco estimates an increase in sales of about $75 to $100 million in the first 5 years alone if NAFTA is passed, which would create 300–500 new jobs for all Illinoisans, including minority Illinoisans.

S&C Electric Co. in Chicago specializes in manufacturing high-voltage switching and protection products. The company employs over 1,000 people. Approximately 25 United States jobs are directly supported by the company's sales to Mexico.

Motorola in Schaumburg, IL, a producer of cellular phones and other electronic equipment, sees big gains under NAFTA. Motorola already has 17,000 workers in Illinois. Mexico is already their second largest export market.

Decorel of Mundelein, IL, is the world's largest independent manufacturer of picture frames. Its U.S. manufacturing and distribution centers are in Illinois. Because of the potential in Mexico, Decorel is moving its work from Asia to Mexico. Decorel has built a new manufacturing facility in Mexico. In establishing the Mexican plant, not one job was transferred from the United States to Mexico. In fact, Decorel's jobs in the U.S. increased.

Moving jobs from Asia to Mexico has helped, not hurt, the United States. Mexican workers purchase United States products. Workers in the Far East are much less likely to do so. And unlike its Far East facilities, the Mexico plant primarily uses American materials and suppliers. And that means more jobs for all Americans.

Champion Pneumatic Machinery Co. of Princeton, IL, makes air compressors. According to Champion, in the last year, for the first time in many years, Mexican distributors are contacting Champion asking for quotes on their compressors. The Mexicans believe that American-made compressors will finally be competitive in Mexico, because of the elimination of the current 10–20 percent tariffs. And that means more jobs for all Americans. The Champion example also makes an important point regarding labor costs. The labor content of their product is only 6 percent of each sales dollar, and as such, they would never consider going to Mexico just for low-cost labor. However, they would consider going to Mexico to avoid the 10 to 20 percent duty that is currently in place.

The Tri-City Port in Granite City, IL, expects significant growth in barge traffic on the inland waterway system if NAFTA is enacted. Tri-City's regional port district estimates that for every 600-ton increase in traffic, one job is created. Freer trade with Mexico has already strained existing rail and highway transportation systems, and the inland waterways transportation system is one of the leading and most cost-effective routes for expanded trade, and stands to directly benefit if NAFTA is approved.

In the agricultural sector, Illinois is a clear winner. Under NAFTA, Illinois' top three agricultural commodities, corn, soybeans, and pork will face freer access to Mexico's growing markets. Under NAFTA, Mexico will eliminate its restrictive import licensing requirement on corn and provide immediate duty-free access for 2.5 million metric tons of corn. The current Mexican duty of 15 percent on soybeans will be lowered to 10 percent. The duty on oilseeds, as well as those on soybean meal and oil, will be eliminated after 10 years. Under NAFTA, Mexico will eliminate its tariffs on live hogs and pork, generally over a 10-year period. Ninety-seven thousand agriculture jobs in the United States are currently export related. This number will grow by an additional 54,000 in the first 5 years under NAFTA.

I could go on and on with additional specific examples, Mr. President, but what all they all demonstrate is that Illinois will benefit from NAFTA and the expansion of trade it will generate. In fact, Illinois is already benefitting. There are now almost 140,000 jobs supported by trade with Canada and Mexico. Illinois exports to Mexico have almost quadrupled over the last 5 years; and NAFTA will help ensure that trend continues.

But if NAFTA is good for the United States, good for Illinois, and good for American workers, as I believe it so clearly is, then why is there major opposition?

One answer is that Mexico is blamed for sucking jobs out of the United States but the United States has a trade surplus with Mexico, which means we get more jobs from trading with Mexico than they get from trading with us. Our real problem is with high-wage countries like Japan which, alone, accounts for 50 percent of our overall trade deficit, and not countries like Mexico.

Mexico is also seen as a low-wage country, and it is argued that the United States can't compete with Mexican wages. However, United States workers are between 2 and 7 times as productive as Mexican workers, which more than makes up for the fact that Mexican wages are lower. And Mexican wages are rising as fast as Mexican productivity is increasing.

There is no question that American workers have been hurt over the last decade and more. There have been layoff after layoff. There have been years of slow growth, or no growth here at home, and stagnant or declining wages.

But NAFTA did not cause those problems, so killing NAFTA won't solve them. The best proof of that is a look at the size of the United States and Mexican economies. The United States economy is over $5.7 trillion in size; the Mexico economy is about $300 billion. Is it really possible that an economy only a little over one-twentieth of our size, one that runs a trade deficit with the United States, can bring down our entire country? The answer to that is clearly "no."

Others argue that approving NAFTA means giving up too much of our sovereignty; and still others not enough. Some fear that NAFTA will undermine United States labor and environmental standards, and others argue that NAFTA must force Mexico to raise wages, improve human rights, and achieve United States-style labor and environmental rules.

NAFTA is not about creating a North American version of the European Economic Community. It is not about making Mexico part of the United States of America.

No trade agreement can instantly turn Mexico into the equivalent of New York or Illinois or New Mexico in per

capita income, or labor law standards, or clean air or clean water. NAFTA is a trade agreement—nothing more, and nothing less.

Implementing NAFTA, however, will encourage Mexico to continue liberalizing its economy, to continue improving its labor standards, and to continue working to improve its environment.

We should not, therefore, let the best get in the way of the good. The fact that we cannot, in any single agreement, instantly create a Mexico with a standard of living equivalent to ours, and with an economy just like ours is no reason to defeat NAFTA.

NAFTA will help Mexico; it will help the United States; and it will help Canada. As I stated earlier, it will result in expanded trade, and that expanded trade will create new jobs, creating a win-win-win situation for all three countries. It's just that simple.

Mr. President, this agreement is about the future of America. My goal is to build a better future not just for the workers in my generation, but for our children. We must think about the future and how to prepare for what lies ahead. NAFTA is part of an economic policy that recognizes that we are a part of the global economy. NAFTA recognizes that trade barriers hurt, not help the United States, that the education of our people is critical to maintaining competitiveness, and that an expanded trading environment can be a win-win situation for both the United States and Mexico. NAFTA acknowledges that the rest of the world is busy forming trading blocs, and that enhancing our international competitiveness and our own economic security requires us to do the same.

NAFTA creates a regional trading partnership. It is not paternalistic, rather, it takes the diversity of this huge trading bloc into account, and builds on that diversity to improve the lives of the ordinary working people in all three countries.

The history of the world, and the history of our country, is a history that proves one thing: opening up trade increases economic growth. That is what this agreement does, that is all it does, but that is something very, very, important, indeed.

NAFTA is about an America that recognizes change and can move ahead to meet the changes. It is about expanding opportunities, creating jobs, and improving the standard of living for both Americans and Mexicans. Voting against NAFTA is about succumbing to the politics of fear. Voting for NAFTA is about meeting the challenges of a new global economic order. It is a trade policy for an outward-looking country like the United States. It is the right thing to do and I urge my colleagues to join with the President in preparing America to compete in the new global economic order.

I daresay, the message becomes the same one: When you increase trade, you create jobs. It is just that simple. When you create jobs, you improve the standard of living for all concerned and provide opportunity for people who would not otherwise be available.

Mr. President, I could go on with the comparisons. Our agricultural sector in Illinois is a clear winner. I will simply say, in agriculture, we stand to gain greatly by the export opportunities created by the NAFTA.

In that regard, I ask unanimous consent to print in the RECORD three letters from constituents, including one worker at one of the companies. He works for American Cyanamid Co. in Illinois.

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

NOVEMBER 10, 1993.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I am writing concerning the upcoming vote on NAFTA. This agreement deserves your strong support because it is good for agriculture and the United States.

The Mexican economy is poised for substantial growth because of changes in their government policies. They are freeing their economy from economic policies that have been stifling the country. They are decentralizing credit and allowing foreign investment. We can participate in this improvement in the Mexican economy or sit by and watch others move in.

NAFTA could help our exports by reducing their tariffs. I work for American Cyanamid Co. which could export more agricultural chemicals made in the U.S. These products have passed all U.S. EPA requirements. Our new products are very safe to the environment and humans. They are also used at very low dosage rates which reduces the total amount of chemicals entering the environment.

U.S. agriculture is very dependent on exports. The former Soviet Union has severe credit problems, so exports to them are declining. We need to be able to find increasing markets such as Mexico to keep existing exports of agricultural products.

This agreement is critical to opening free trade in other areas that will help our economy. I appreciate your support of this issue and ask that you help convince others on this key vote.

Sincerely,

BRUCE STIKKERS.

CHAMPION
PNEUMATIC MACHINERY CO., INC.,
Princeton, Illinois, July 16, 1993.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

Re North American Free-Trade Agreement (NAFTA).

DEAR SENATOR: Champion Pneumatic Machinery Company, Inc. of Princeton, Illinois, is a manufacturer of Air Compressors. Champion asks that you support the North American Free-Trade Agreement (NAFTA). Our experience with the Canadian version of this bill has been increased sales of our compressors into Canada and our belief is that we will have a similar increase in business if NAFTA is expanded to include Mexico. Over the last year, for the first time in many years, Mexican Distributors are contacting Champion requesting quotations for our compressors. They have clearly stated to us that the only reason for this renewed interest in our products is the firm belief that NAFTA will be passed and that American products will finally be competitive in Mexico due to the decrease in Mexican import duty (currently 10 to 20%).

In our view, the passage of NAFTA will increase sales of U.S. made products into Mexico, will also stimulate the Mexican economy, will reduce the tendency of U.S. firms to set up manufacturing plants in Mexico (since the economic advantage of a high import duty will be gone), and will tend to reduce the problem of high immigration of Mexican citizens to the U.S.

Our firm belief is that U.S. firms can be competitive with Mexican firms, despite the difference in wage rates, due to the high productivity of American manufacturing firms. On the same point, it is interesting to note that at Champion our labor content is only 6% of our sales dollar. As a result, we would never consider going to Mexico just for low cost labor. However, we would consider going to Mexico to avoid the 10 to 20% duty that is currently in place.

At the present time the compressor market in Mexico is primarily served by imports coming from Japan, Korea and Germany. With the passage of NAFTA U.S. firms will have a significant advantage over our foreign competitors. This may sound unfair, but this advantage does meet GATT standards. In our view the passage of NAFTA will mean an increase in business for Champion and other Illinois manufacturers, I heartily endorse NAFTA and sincerely request your support of this critical bill.

Sincerely yours,

GILBERT D. WILLIAMSON,
President.

DECOREL CORP.,
October 6, 1993.

Senator CAROL MOSELEY-BRAUN,
S.O. Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: Decorel is the quintessential example why NAFTA is important to the United States.

We cordially invite you to visit our American factories in the Chicago, Illinois area and/or our new manufacturing plant in Durango, Mexico. You will see an example of increased jobs on both sides of the border in manufacturing facilities that are dedicated to environmentally sound principles.

Attached is further information regarding Decorel's history and operations. We hope you will take advantage of our invitation to show that NAFTA can expand the economies of Canada, the United States and Mexico simultaneously.

Sincerely,

STUART R. SCHEYER.

DECOREL/NAFTA INFORMATION

Decorel supports NAFTA. For reasons outlined in this letter, Decorel is an excellent example of the type of company that increases jobs on both sides of the border and is beneficial for the entire North American continent.

For background, Decorel is the world's largest independent manufacturer of picture frames. Although this is our 90th year in business, our sales have quadrupled in the last four years. Our 1,000 employees produce over 100,000 frames each day for sale through mass merchants, such as Kmart, Wal*Mart, Target, Osco, Eckerd, and similar retailers.

We have three manufacturing and distribution centers in the United States. We also recently made a significant investment in manufacturing facilities in Mexico. We now

have 100% ownership of a 60,000 foot factory on 6.5 acres in Durango, Mexico with 200 employees. One of the reasons for setting up a factory outside of the U.S. was to gain better control of production of specialized products. Decorel has always manufactured 85% to 90% of our own merchandise in the United States, but the balance was purchased in the Far East. The new operation in Mexico supports our strong growth and will transfer jobs from the Far East back to North America.

Although we moved to Mexico before the NAFTA Agreement, we believe we are the quintessential example of the advantages of NAFTA! Consider the following benefits:

1. We are now moving jobs from Asia to the North American continent. (A Mexican worker purchases U.S. products. A Far East worker does not).

2. The 200 jobs that we have in Mexico are in addition to an increase in workers that we have in the Chicago area. We have not transferred a single job from the United States to Mexico.

3. By using our Durango factory as a base, Decorel is now selling U.S. manufactured products in Mexico. We are also vigorously expanding our exports to Canada.

4. We are now exporting material and components from the United States to Mexico in place of material that was purchased in the Far East. We are very familiar with the enormous amount of exports being made from the United States to Mexico; we understand that an improvement in the Mexican economy will further increase exports from the United States to Mexico.

5. We have dealt directly with many business people in Mexico, as well as a significant number of local, State and Federal officials. We have been treated with extraordinary courtesy, competence and a degree of honor that would make any United States locality proud. We have also been required to install and maintain labor and environmental standards that are comparable with U.S. requirements.

For reasons outlined above, we believe that NAFTA is good for Mexico, the United States and Canada. We will be very pleased to testify before any Congressional Committee regarding our specific experiences.

Ms. MOSELEY-BRAUN. Mr. President, I could go on with specific examples, but what they all demonstrate is Illinois will benefit from NAFTA and the expansion of trade it will generate. In fact, Illinois is already benefiting. There are now almost 140,000 jobs supported by trade with Canada and Mexico in my State. Illinois exports to Mexico have almost quadrupled over the last 5 years and NAFTA will help assure that trend continues. NAFTA is good for Illinois and it is good for American workers and, therefore, I believe that it is good for our country.

The question becomes, what about the opposition? I do not have a lot of time to talk about the issue of whether or not there is a sucking sound. Quite frankly, to talk about a sucking sound of an economy one-tenth the size of ours is like talking about a gnat trying to swallow an elephant. I do not believe it is possible. I believe it is really more a part of the fear mongering that has gone on about this issue.

Another point that has been raised in opposition to the NAFTA has been the notion that Mexico, particularly, does not have the same environmental and labor standards that we have in this country. We are not creating a European Community or the equivalent. We are not making Mexico and Canada the 51st and 52d States. They are sovereign nations. They will have their own operations. They have their own specific situations.

Quite frankly, to suggest that we can demand we have identical standards and completely harmonize our economies really is facetious. It would be the equivalent—as I said to my friend, Senator DODD, a while ago—it would be the equivalent of a Canadian saying we do not want to have a trade agreement with the United States because you have too many guns, too much crime and you do not have free health care. It does not make sense.

Mr. BAUCUS. Mr. President, I yield as many minutes as the Senator from Illinois wishes to have.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I will wrap up and be brief.

Again, we are not talking about fully harmonizing. We are talking about opening up an opportunity to create a regional trading arrangement that will give us the ability to be competitive in this world market with other groups that have gone into regional trading arrangements. The Europeans have come together. Japan and the Pacific rim have come together. They recognize that to trade in this world economy, you are going to need as many partners as you can get.

NAFTA is about creating a partnership, creating a partnership in which we join with our neighbors to the north and our neighbors to the south in order to compete worldwide; that we have a regional trading bloc that will give us a tool. It will not be the total answer, but it will give us a tool to assist in our efforts to be competitive and to win in the global economy of the 21st century.

That is why I say, in conclusion, Mr. President, that this issue really comes down to whether or not you are going to be intimidated by fear or whether we are going to be emboldened by hope. That is the bottom line issue here. I think that we have the capacity in this great Nation to follow our hopes, to go forward with an agreement that allows us a broader playing field, that gives us greater tools in which to engage in this global competition, that offers hope and opportunity to the American people without regard to what part of the country you live in or what race or gender you are; that all Americans can benefit when we expand opportunity. As we expand trade and expand our capacity to compete, we will expand opportunity and that will be good for our country. That will give us the basis on which to move into the 21st century.

Mr. DODD. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Will the Senator yield?

Ms. MOSELEY-BRAUN. Yes.

Mr. DODD. I just want to commend our colleague from Illinois for giving a very thoughtful and complete and thorough statement and an analysis of this issue, as it affects her own State, as it affects the country and our relationships in this hemisphere. She is to be commended for it.

I note, Mr. President, in the discussion specifically of the impact on the State of the Senator from Illinois, that she was talking about working people, real jobs, real people, people trying to make ends meet every single day.

I want to underscore her comments in that regard because too often in this debate there is a suggestion that those who are for NAFTA somehow do not care about those people. Those of us who are for it have analyzed very specifically the impacts within our States and within this country.

The Senator from Illinois very clearly pointed out how average working people will be the beneficiaries, we believe, of this agreement. I commend her for those remarks and the thoroughness of her statement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I, too, want to commend the Senator from Illinois for a most thoughtful and most refreshing statement. I was quite struck, quite taken with her statement, and I very much commend her for it.

Ms. MOSELEY-BRAUN. Mr. President, I would like to especially thank the Senator from Montana for allowing me the additional time. I should have figured out that my speech would have been about 30 minutes if given as written, but at the same time I greatly appreciate his kindness and graciousness in allowing me to speak extemporaneously about this issue.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. BAUCUS. Mr. President, I yield off the time of the Senator from New York as much time as the Senator needs.

Mr. HEFLIN. Mr. President, I will probably reserve some time for tomorrow or later. I want to mention two or three things.

First, I want to mention the IVA which I have not heard much discussion of. The IVA is an incremental value added in Mexico. It is a 15-percent sales tax and it is charged today in the maquiladora program. NAFTA does not change this. It will still be for all goods going into Mexico that we might export, there will be a 15-percent value-added tax placed on it. For all

goods coming out, it will also have the IVA added to it.

This may be and it could be declared to be a trade barrier. I mention that as a possibility. It can grow. Some of us attended the North Atlantic Assembly in Denmark. We, to our amazement, found they had a 25-percent value-added tax. Some of us visited Ireland this summer, and they had a 20-percent value-added tax. We do not have any in the United States. It is just a fact I think that ought to be made a part of the RECORD and be considered.

I want to talk about what I call the job-loss syndrome that we are in today.

We constantly read in the newspapers of layoffs that are taking place. We hear about the military downsizing and the loss of jobs that will occur as a result of downsizing of the military. The reinventing Government concept has come about and overall we are talking about 200,000 jobs being cut in Government. I am not saying that they do not need to be cut. I am just saying these are facts that are going to occur.

We have adopted a program in the crime bill in which you have created a trust fund that is based upon job displacement and job loss. We know that we are in a world in which automation is occurring and that automation basically moves toward job displacement. Sometimes I argue with that general concept, but it is present today.

There is a movement in Government in regards to cutting back research in the future. Research has basically produced jobs. But the movement toward cutting research is prevalent today. I do not want to argue the super collider. I do not want to argue the space station. But there basically is research. NASA has produced benefits in the amount of about 9 to 1.

Then Alan Greenspan came along recently and made a statement, and I have the Washington Post of Saturday, November 6, 1993, in which it says:

Layoffs Become a Lasting Reality. Toll on Jobs Obscures Economic Gains Now to Come.

In the figures that he quoted:

In 9 months in 1993, there were 449,364 layoffs that occurred in the United States.

Now, all of this is a part of a syndrome. Our population is increasing. We are talking about welfare reform which is greatly needed. But the concept is that there would be additional people added to those prospects for the jobs we have.

Then I look at our trade policy. I see that we have a deficit in relation to the import-to-export ratio. We look to Japan, and we see the trade deficit that we have. I have to ask the question: What country obviously has had the best trade policy for the last two decades or the last three decades? And there is no question that Japan has certainly been a country that has had an outstanding trade policy.

Now, I am not advocating that we adopt everything they have, but it seems to me we can look to Japan and get some ideas. I think it is time we began to rethink our trade policy in this country because we can learn from some other countries, certainly those countries where we have a deficit and to those countries that have lost their manufacturing base.

Now, some say, well, it depends on what position you are in. Some say we are going to lose manufacturing jobs. Others say we are going to gain them. But the figures seem to be generally universally accepted that for 100 manufacturing jobs you lose, you also lose 421 support jobs. For service jobs, if you lose 100 service jobs, you lose about 147 support jobs.

We have a situation in which you have to ask, is NAFTA going to result in a job loss or will it stay the same or will it be a gainer? In my judgment, it is a job loss. There are too many relocation incentives: Labor savings, the history that has occurred in so many different areas such as the shoe industry and the movement that has taken place where today 87 percent of all of the shoes bought in America are made in some country outside the United States. To me, with the relocation incentives—59 cents an hour minimum wage, savings on OSHA, savings on clean air, savings on clean water, savings on unemployment compensation, savings on Social Security taxes, and down the line you go—business wants to go to Mexico because they can make more profit. When they make more profit, they do it at the sacrifice of Americans and American jobs.

I reserve for later the remainder of the time that is reserved for me.

The PRESIDING OFFICER (Mr. SIMON). Who yields time?

Mr. LAUTENBERG. I wonder if I might have 3 minutes from the Senator from New York.

Mr. MOYNIHAN. Mr. President, I am happy to yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 3 minutes.

Mr. LAUTENBERG. I thank the Senator from New York, Mr. President.

I was sitting in the Presiding Officer's chair for about an hour listening very carefully to some of the speeches that were made. I began to hear a tone of what I will call discordant notes that were being echoed as people reviewed, to use the expression, the bidding so far, and statements made I think that reflected a little bit of the anxiety we are all experiencing as we review this bill.

Mr. President, I heard one of our Senate colleagues make some remarks that suggested there perhaps was a conspiracy of labor, of labor management, to keep people from having increased wages or better conditions so that labor leaders could in fact appeal to them to join the union.

I think it is an outrageous statement to make, Mr. President, and I hope the RECORD will reflect accurately the remarks made by the individual on the floor of the Senate.

Could there be a cynical labor leader who does not care? Sure. But to suggest that there is a plot afoot, a hoax being perpetrated on the working person to frighten them so that they raise their voices against NAFTA is an outrageous claim.

Mr. President, if our friends from labor, our friends from management have any review of the RECORD that is taking place this evening, I hope they will note this Senator objects to that kind of reference. I do not want to say that anyone who disagrees with me is arrogant or sanctimonious or hypocritical. That is not the basis for the discussion. But to suggest that there is kind of a wholesale thing taking place in labor leadership to scare people so that they come out against NAFTA is, I think, a deceptive statement to make.

Mr. President, I have looked into the faces of working people. Those are my roots. My father worked in a factory in New Jersey to try and make ends meet, to try to educate his children. He was not always successful, but he was honest and hard working, and the job that he had meant everything in the world to him.

I look in the faces of people, some of whom have been on jobs for decades, and they are frightened silly because they know that the job market is lean, that they are in danger of losing their jobs even without this trade agreement, and they are concerned. You cannot casually dismiss that concern. Perhaps from the fat stand that we take here with good, satisfactory pensions and pretty good salaries, yes. It is easy to look at the working people and say, "What do they know?"

They are being deceived by their leaders. People, Mr. President, are frightened about the job loss because the job loss today may mean the end to an opportunity to educate your child or to continue your health care or to be able to continue to make your house or your rent payments. This is a genuine concern that runs through working people across this country. Union members know about the fact that their jobs may be going south under their very nose. And they have a right to express that fear.

I for one respect it when someone says to me, "Senator, what about my job? My company has a plant in Mexico now, and I am afraid that if we go through with this they will move more of our jobs down there."

People in the glass business in New Jersey, management and union, came in to see me together to plead for us not to enter into this agreement because management saw an investment that was made through generations.

I ask if my colleague will yield me another 3 or 4 minutes.

Mr. MOYNIHAN. Another 3 minutes and there are other Senators.

Mr. LAUTENBERG. Mr. President, I met with management ownership of the company that had been a laborer family business for generations in south Jersey, a glass company, with an excellent employment record, joining with the labor leaders in that company coming to my office to plead with us. "Please, Senator, do not let this agreement go through because we know that these products can be made perhaps cheaper but with poorer quality and less concern for the working conditions."

So, Mr. President, before the tempers get away from us, just to make a statement clearly and, I hope, effectively, I am voting against NAFTA because I am concerned about the several things lost in the process, not the least of which is a de minimis paltry number of jobs to be added at the end of a 5-year period, about the workers' standards under which they toil, about whether or not their rights are observed to negotiate, to organize, and to bargain, and whether or not the $30 or $40 billion that it could cost this country of ours in direct cash investment is worth the kind of yield that we are going to get. But I think we ought to keep the insinuations and the accusations out of the dialogue.

I thank my colleague for permitting me to use the time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I want to make a relatively minor point. When the Senator from Alabama spoke earlier, he began his remarks by remarking on the IVA, and a lot of us are wondering what is the IVA. He mentioned the tax to Mexico. It is an incremental-value-added tax.

Essentially, Mr. President, all countries have value-added tax systems, and there are a good number of countries who do. The Common Market countries do. Many countries do. Essentially they assess the tax on the value added, which means that a car sold in Mexico produced in Mexico is assessed a value-added tax. A car produced in the United States sold in Mexico is assessed the same tax. It is a nondiscriminatory tax.

Frankly, it has nothing to do with NAFTA. NAFTA does not create this tax. NAFTA does not address this tax. It is a matter that is irrelevant to NAFTA.

It is also true, however, that countries that have a value-added tax are able to have the value added that is exported to another country rebated. In effect, it gives an incremental advantage to those countries to have a value-added tax system over countries that do not.

This is a problem that we have had in the United States in the last several decades with Europe because the Europeans are able to rebate the value that they add on exports to the United States, and we are unable to do the same. We tried to do somewhat the same in various ways. But they basically violate the GATT.

When the GATT was formed, essentially the value-added rebate portion is allowed to be retained by the value-added tax countries, whereas we in America are unable to do the same.

But I point all of this out because it really is a matter that has not a lot to do with NAFTA and is unaffected by NAFTA. I mention these points in case some Senators or people listening wonder what the effect of that might be on the proposed North American Free Trade Agreement.

Mr. President, I see no other speakers who wish to speak at this time. I suggest the absence of a quorum, and under the rule, I assume that the time is equally charged against all four sides.

The PRESIDING OFFICER. That will take unanimous consent.

Mr. BAUCUS. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object, Mr. President.

Mr. President, parliamentary inquiry: Is it not so that we are not on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Then this Senator is of the opinion that it is possible for Senators to take time here that would be counted against time on the bill, but it is not possible to force the Senate to use time on the bill. So I would object. I do not have any problem about using the time, but I object to having time charged against the bill before the bill is before the Senate.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, I wonder, since we are not on the bill, if I can ask unanimous consent that I might make a statement as if in morning business for time to——

Mr. MOYNIHAN. Reserving the right to object, I do not intend to object. Mr. President, we are on the NAFTA legislation.

The PRESIDING OFFICER. Objection is heard. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I request clarification from the Chair with regard to the point raised by my friend from New York. It is not clear to the Senator from Alaska what he is objecting to.

Mr. MOYNIHAN. I said reserving the right to object. I do not mean to object. I was trying to clarify the parliamentary situation. We had not filed the bill at the time we began debating. Is that correct? My friend from Alaska wants time.

The PRESIDING OFFICER. The Senate is not considering the bill at this point.

Mr. MOYNIHAN. Is time on the bill running, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. The time is running on the bill we are not considering?

Mr. STEVENS. Parliamentary inquiry, Mr. President. Is it not true that the time consumed by a Senator speaking on the bill is charged against the bill but the time is not running against the bill in the sense that any time used now is automatically charged against the bill?

Mr. BAUCUS. Mr. President, maybe I can clarify this. Mr. President, is it true that we are operating under a consent agreement where time is allocated? I only recall the unanimous consent requires the time be charged against, allocated to all four sides.

The PRESIDING OFFICER. That is the Chair's understanding. Let me check with the Parliamentarian.

The situation is that while we are technically not on the bill, under a unanimous-consent agreement, we are operating as if we were under the bill, and all quorum calls and everything else are charged to the time on the bill.

Mr. STEVENS. Will the Chair read that time agreement? That is not this Senator's understanding. I would have objected had that been spelled out. I have no objection against a Senator being allowed to charge time now against that bill. But that bill is not before us. I do not believe we can be compelled to use the time pursuant to the 1974 law before the bill has been called up.

The PRESIDING OFFICER. The Chair would advise the Senator from Alaska that with unanimous consent you can do many things in the Senate.

Mr. STEVENS. Except change the law.

The PRESIDING OFFICER. The Senator from Alaska may modify the unanimous-consent agreement.

Mr. STEVENS. I do not seek to modify it. I seek to enforce it. I want the bill called up. When the bill is called up, the provisions of the 1974 act apply.

The PRESIDING OFFICER. Under unanimous consent, the time is allocated on the bill as if the bill were under consideration by the Senate.

Mr. STEVENS. This Senator has an amendment to offer, and I cannot raise that amendment until the bill is called up. I want the bill called up. Then I will consent that the time can run.

The PRESIDING OFFICER. The Senator from Alaska has a right to ask by unanimous consent.

Mr. STEVENS. Meanwhile, I object to running the time against any time I control, and I control 5 hours, I think.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I understood that the Senator from Alaska sought to proceed as in morning business, and it seems to be a matter on which we ought to accommodate the Senator.

Mr. BAUCUS. I would have to object to that request.

Mr. MURKOWSKI. Mr. President, I impose a unanimous consent——

Mr. MOYNIHAN. I do not seek to disrupt our present procedure, but would it not be possible by unanimous consent for the Senator from Alaska to speak?

The PRESIDING OFFICER. Under unanimous consent, the Senate can do almost anything.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that since there is no Senator rising to speak on the bill, I might be allowed to speak as in morning business for not to exceed 5 minutes, with time not to be charged to either side.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Parliamentary inquiry, Mr. President. Is this Senator's understanding correct that the Chair is ruling, based on the Parliamentarian's advice, that all time on this bill could be expended under this unanimous consent agreement before it is possible to offer an amendment and trigger the rights under the 1974 act?

The PRESIDING OFFICER. The Senator is correct. That could take place.

Mr. STEVENS. I respectfully say that is not correct. I am about ready to appeal the ruling of the Chair. I would hate to get too many Senators out of bed. I suggest that we find some way to settle the matter.

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Alaska that there is no way to settle the matter. We have been proceeding in good faith, understanding that we were running time on a bill. Not every committee had worked out its final details.

The majority leader is on the floor. I suggest that he resolve this matter.

Mr. STEVENS. I am delighted to see my good friend, the majority leader, here. I cannot conceive that we would enter into an agreement that would deny a Senator a right to raise an amendment, as is contemplated by the 1974 act, by the device of saying that all time will be charged against the bill before we go on the bill. I cannot raise an amendment. I cannot trigger the provisions of that act until we are on the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I see the Senator from Alaska now engaged. I was about to ask him a question on my time.

Mr. MOYNIHAN. Perhaps the Senator can ask me the question.

Mr. BAUCUS. I ask the Senator the question: What was the amendment or amendments the Senator from Alaska has in mind?

Mr. MOYNIHAN. I do not believe any amendments are in order.

Mr. BAUCUS. That is why I was going to ask that question. I do not know what amendments are in order.

Mr. MOYNIHAN. Had it been the intention of the Senator from Alaska—I am happy to answer it, but that seems to be the only answer available, that no amendments are possible. That is why it was on fast track.

Mr. BAUCUS. That is what I thought fast track meant. Perhaps other Senators might know what amendment the Senator from Alaska might possibly offer that might be in order.

The PRESIDING OFFICER. Does any Member of the Senate seek recognition?

Mr. MOYNIHAN. Mr. President, I rise once again to state the view that I have expressed. Senators from both sides have stated that the measure before us is deficient with respect to its provision for workers who inevitably will lose their jobs in the United States as a consequence of this trade agreement, as of any trade agreement. Such as that going back to 1962, the Kennedy Round Trade Expansion Act of 1962, which I had the privilege to be involved with as a member of the Kennedy administration. We have provided trade adjustment assistance, and even President Bush—I should not say even President Bush—contemplated a third of a billion dollars a year of trade adjustment assistance for this measure, and it has not been provided.

I believe there is a question that has been vigorously raised by other Senators as to the degree to which an agreement of this kind confirms current political, economic, civil rights, and human rights arrangements in Mexico, which ought to be resisted. That is the intent of our argument. We have made it through much of this day, from 1 o'clock this afternoon. I cannot doubt that we will continue until the 20 hours equally divided has been consumed.

I see other Senators. I do not know that any wish to seek recognition, but if any do, I would be happy to yield. The Senator from Michigan has risen. I am happy to yield to him.

Mr. RIEGLE. I wonder if you might yield me 3 minutes.

Mr. MOYNIHAN. I am happy to do it.

The PRESIDING OFFICER. If we can get in some attention, please.

Mr. RIEGLE. There has been much said today on both sides of this issue, but I think the critical issue is going to be the job loss here in America. First, we must be concerned with plants and operations that close in America and move to Mexico in order to take advantage of the lower labor costs, lower environmental and workplace standards, the lax law enforcement. But second, we must also be aware of the low wage levels in Mexico and 60 million workers down there.

NAFTA will result in tremendous downward pressure on wages and benefits for workers still working in the United States. Many workers will be told that if they do not accept lower wages and lower benefits, either a competitive firm in their industry will take away the business and their jobs by producing these alternative products in Mexico, or the company they work for will say simply that they cannot afford to maintain the wage levels in the face of tougher Mexican competition at lower prices.

So you are going to see a tremendous downward pressure on wages and benefits for workers here in the United States.

We have a terrible problem with unemployment right now. NAFTA is essentially a jobs program for Mexico. We need a jobs program for the United States. We do not have one.

The President earlier in the year tried to do a modest job stimulus program. It was voted down by many of the same people who now say they are for NAFTA. In fact, today NAFTA supporters are willing to do something to create jobs in Mexico, but they are not willing to create jobs here in the United States.

I think the most serious problem facing our country is the lack of a sufficient number of private sector jobs. People need work. They need it for dignity. They need it to support themselves and their families. They need it to have any meaningful way to live here in the United States in 1993.

You cannot function in any meaningful way if you do not have a job. If you are qualified, as so many millions of people are, to work by their past work experience and their job preparation and yet still cannot find a job, you have a situation that is really not tolerable.

I mentioned earlier today the explosive growth of the underclass here in the United States. We see it in our urban centers. There are unemployment rates of 50, 60, 70 percent among urban youth in our society. They cannot find jobs. It is easier for many people today to get a gun than it is to get a job.

It is not surprising we are seeing a breakdown of social order. We are seeing a classic "Clockwork Orange" society because we don't have an adequate job strategy that holds out the promises that work, education, and effort can lead to some meaningful employment. We sort of break the promise of America and break the bond of faith that has to be there if we expect to see people, in a sense, accepting responsibility, seeking work, working, building families, and holding families together.

You cannot do that if there is not work, and the NAFTA has to be seen in that sense. I hope that a maximum number of Senators will vote against it because it is bad for our country.

I thank the Chair.

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

Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Alaska rise?

Mr. MURKOWSKI. The Senator from Alaska rises again to request unanimous consent that I may be allowed to proceed as if in morning business assuming there is no other Senator who wishes to speak and the time not being charged to either side.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, based on assurances I have received from the majority leader, I yield to my colleagues such time as he might want, 5 or 10 minutes from the time I control on this bill.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized for—how much time is yielded to the Senator?

Mr. STEVENS. Up to 10 minutes, please.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized for 10 minutes.

Mr. MURKOWSKI. I thank my colleague from Alaska.

Mr. President, my intention is to proceed as if in morning business.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of Senate Joint Resolution 153, S. 1684, and S. 1686 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. Mr. President, I want to conclude by again thanking the senior Senator from Alaska, who, I might add, is celebrating his birthday today. I will leave it up to my colleagues to find out which one.

I thank the Chair.

The PRESIDING OFFICER. Who seeks the floor?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am about to suggest the absence of a quorum and ask unanimous consent that all time be charged equally among the four designees who are managing time.

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Alaska objects. The Chair is advised by the Parliamentarian, if a quorum call is called, it is automatically divided among all four groups.

Is there a question whether a quorum is present?

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

The PRESIDING OFFICER. The time will be charged to all four sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, each side is allocated time, both for and against NAFTA. We are somewhat limited in terms of time for those who want to speak for NAFTA, enlightenment being widely distributed through the Senate.

We have relatively few demands for time from those who want to speak against NAFTA. We have checked with the person who controls the time for those on our side of the aisle who will speak against the agreement. As long as their time does not drop below 2 hours, they have no objection to running the time while we are in a quorum simply against the opposition time on the Republican side of the aisle.

So I ask unanimous consent that, under the quorum which I will ask for when I finish speaking, time that will run off the clock on the Republican side of the aisle be charged against the opposition time, but that that process stops when that time is down to 2 hours remaining.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I ask unanimous consent that the Senator from New Jersey, Senator LAUTENBERG, be able to speak and that the time be equally charged among the four designees who have time allotted to them, and at the conclusion of Senator LAUTENBERG's remarks, that the Senate revert to a quorum call under the same provisions as requested by the Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New Jersey is recognized, for how long?

Mr. LAUTENBERG. At the most 6 minutes. I probably will use less, Mr. President.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

CHUCK DEMARCO, AIDS AND TOTAL BODY HYPERTHERMIA

Mr. LAUTENBERG. Mr. President, I thank the Senator from Montana and my colleagues for permitting me to make a brief statement that is not related at all to the NAFTA discussion. But since the time is available, I am pleased to have the opportunity to talk about a constituent of mine whose name is Chuck DeMarco. He is from Union City, NJ. Chuck recently visited my office in Washington to inform me and representatives from the National Institutes of Health and the Food and Drug Administration about a potential revolutionary treatment for AIDS called total body hyperthermia.

I ask unanimous consent that an article that Mr. DeMarco wrote about his experience with AIDS and total body hyperthermia be printed in the RECORD.

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

[From People With AIDS Newsline, Oct. 1992]

IS HYPERTHERMIA AN EFFECTIVE TREATMENT FOR AIDS?

(By Chuck DeMarco)

One thing that all people have in common is survival. Everyone wants to live and achieve the goals we have in life. When I found out in the spring of 1988 that I had tested antibody positive for HIV, my best friend Mike and I began the quest to find a treatment that would be effective in combating this disease. Over the next two years, Mike and I researched and in some cases tried various therapies that were purported to help stop the progression of HIV, including: Typhoid vaccine therapy, lentinin, ozone therapy, oral alpha-interferon, macrobiotics and vitamin therapy. Of course none of these treatments worked for either of us, and we began to see a gradual decline in our CD4 counts, and a progression of ailments such as KS, pulmonary herpes, shingles and hair leukoplakia.

By this time Mike had developed several KS lesions on his face, for which he had undergone radiotherapy. Although the radiation lightened the lesions, more were appearing on other areas of his face and body. In my case, my first lesion appeared in my mouth, and things were further exacerbated by my contracting acyclovir-resistant herpes in my lungs. Our doctor one day in late December of 1990 told us about the story on Larry King Live about the experimental procedure that had been done to Mr. Carl Crawford in Atlanta utilizing heat as a therapy for his KS. It appeared that not only did the heat cause a total regression in Mr. Crawford's lesions, it also had the profound impact of sending him into complete remission. This sounded too good to be true, but as a layman at the time it did make sense. So, it was off to Atlanta to find out more about this procedure called hyperthermia.

In January of 1991, after scouring the newspapers for any information regarding hyperthermia, I located Dr. Kenneth Alonso who had performed the first hyperthermia treatment in February of 1990. I called him,

and got an appointment for Mike and myself in the latter part of January. The quest had begun.

Arriving in Atlanta, I found Dr. Alonso to be a kind, courteous, very intelligent doctor. He proceeded to examine the two of us, and told us that in order for us to be eligible for hyperthermia he would have to biopsy one of our lesions to see if it was heat sensitive. If when it was subjected to heat the KS multiplied we would be ineligible. If it did nothing or the tumor shrunk we would be eligible. It then became a waiting process, as we waited for the next six days to see how our biopsies turned out. I remember the excitement on February 3rd, when Dr. Alonso called Mike to tell him his tumor responded favorably and he was eligible for hyperthermia. In my case, Dr. Alonso said that a few more days were necessary because there was as of then no activity occurring. On February 6th, I got the call that would make Mike and I medical pioneers. My biopsy responded favorably, and we were asked if we could travel to Italy to undergo hyperthermia on March 2, 1991.

Over the next several weeks, we went through a battery of tests to determine whether our bodies could handled the stress of undergoing the hyperthermia procedure. Besides the normal blood tests, a pulmonary function test, EEG and EKG tests were required. Since all the tests came back normal we were told we could withstand the procedure.

Presently, hyperthermia is being performed at two centers in Italy. In fact, it is an approved cancer treatment there, and total body hyperthermia, which is what Mike and I were doing, was done routinely, but still experimental for PWAs. Our procedure was going to be done in Rome at the European Hospital, which is part of the University of Rome. On Friday March 1st, we met with Dr. Paulo Pontiggia who looked over our medical records, did an examination of the two of us, and told us to check into the hospital the following morning at 9:30 a.m.

I think that any time a person is going to have any sort of a medical procedure there is some fear. I remember expressing my fears to Mike as he did the same to me, but we both realized that if we did not go through with this, there really was nothing yet on the horizon that might be able to help us. Yes, we were scared. One of the risks of undergoing any form of general anesthesia is death. If we did not take a chance with this, we may never get the opportunity to get into a trial ever again.

The next morning, Mike and I arrived at the hospital and were brought up to our room. What a beautiful hospital and grounds! I felt like a millionaire, each room with a marble bathroom, comfortable surroundings and spotless. Mike opted to go first. He was given two injections; one of heprine and one of morphine. About 45 minutes later he was wheeled down to the operating room for the procedure. Once in the OR, an IV was put into a vein in the arm, and after the anesthesia was administered, a catheter was inserted into the femoral artery in the groin. At this point the procedure is ready to begin. Once you are fully under general anesthesia, a thermometer is placed inside your stomach via your throat, one is inserted rectally, you are placed on a heart monitor, brain monitor and well ventilated. The procedure takes anywhere from 2 to 3 hours. It takes about 45 minutes for your body to be brought up to the desired temperature between 108° to 112°F. Mike was brought up to 110°F for two hours and ten minutes, and I was brought up to a staggering 112°F for one hour and 40 minutes. While this is happening, HIV and other viruses are being killed off, you turn red as a lobster and are sweating profusely. Then they slowly lower the temperature back down to normal, which takes about 20–30 minutes, remove the catheter and other medical devices and wake you up.

Now the good news! The first thing I noticed was the cough which I'd had for almost 1½ years was gone. It is now 18 months since hyperthermia, and I have not coughed once since March 2nd. The KS lesion in my mouth and on my leg were much lighter. My hairy leukoplakia was gone. In Mike's case, his hairy leukoplakia vanished, and his skin lesions on his face had white rings around them and were beginning to disappear. We both began to have incredible amounts of energy. Prior to the treatment we were sleeping between 14 and 18 hours a day. After the treatment we were sleeping less than 6 hours a day. We had our bloodwork done about six weeks after the treatment and noticed the following: CD4 count went from 220 prior to treatment to 851 after the treatment. CD8 counts went from 980 prior to 220 after the treatment. I was p24 antigen positive prior to the treatment and then p24 antigen negative afterwards. Similar things happened to Mike, except that he remained antigen positive.

As I said, it has been 18 months since I first underwent total body hyperthermia. To date 27 people have done hyperthermia in Italy, of which I have had the honor of knowing 3 and can tell you that 2 are still alive and doing well. I also have had the opportunity of meeting with Carl Crawford in July of this year at an International Conference on Hyperthermia. Let me tell you that after 29 months, he not only looks great, he is still quite healthy without any opportunistic infections and without taking any antivirals. As for myself, my CD4 and CD8 counts fluctuate but I never dip below 300 and my normal figure seems to be around 700. My cough is still gone and I am not on any medicine of any kind. I feel that hyperthermia has worked for me, not as a "cure" but as an effective treatment that for the past 18 months has kept my condition in check. If I had to have hyperthermia done again, would I do it? You better believe I would.

Mr. LAUTENBERG. Mr. President, as my colleagues will see if they read the article, Chuck DeMarco has responded incredibly well to the hyperthermia treatment that he received in Italy. At one point, he was near death, and now he is antigen negative and culture negative for the AIDS virus. Unfortunately, hyperthermia treatment is not available in the United States, even on an experimental basis.

However, Chuck DeMarco is working energetically with medical researchers and private companies to develop a proposal to submit to the National Institutes of Health or the Food and Drug Administration so that hyperthermia treatment for AIDS may begin in the United States.

I take this time to commend Chuck for all of the hard work he has done to help advance AIDS research. I also pay tribute to the great courage he has shown in his battle with AIDS.

I would like to inform my colleagues that Chuck and others have started a nonprofit organization to advance the cause of hyperthermia research in the United States. I encourage my colleagues to let any interested constituents know about Chuck's work to advance the cause of hyperthermia. The cause is to try to resolve the problem of AIDS and stop its deadly onslaught.

He can be contacted at the Hyperthermia Education and Treatment Information Service, Inc., and that is at 1516 Manhatten Avenue, Suite B–W, Union City, NJ, 07087.

Mr. President, I thank the Senator from Montana for permitting me to make this statement.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER (Mr. FORD). The Senate now, under the previous unanimous consent agreement, will have a quorum call and the quorum call will be charged to the opponents of the North American Free-Trade Agreement on the minority side. 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 and that I may be allowed to speak under the time allotted to me by the proponents of NAFTA.

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

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Might I ask, the time is allocated to which side?

Mr. MURKOWSKI. For the proponents.

Mr. BAUCUS. Proponents.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. It is my understanding that the time would be——

Mr. BAUCUS. Mr. President, I do not think I have the authority, but it is the understanding that the time would be allocated against the Senator from Oregon [Mr. PACKWOOD].

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair would observe that someone who controls the time should yield the time. Under unanimous consent we can do most anything.

Mr. MURKOWSKI. I thank the Chair. I appreciate his willingness to recognize the reality that I am depending on my friend from Montana.

Mr. President, we have an emotional issue, a difficult issue with regard to NAFTA.

Oftentimes people do not really get exercised about our dry trade laws. On the other hand, when they begin to think about their jobs and what those trade laws mean they begin to react. We have seen that reaction of late, we have seen our President, we have seen

our Vice President, we have seen Mr. Perot and a number of others, we have certainly seen Congress dealing with the problems associated with creating new jobs. Opening new markets to American products can create an environment in this country where new jobs can develop and Americans can become employed. So opening new markets to American products will provide tremendous juice, if you will, for our economy.

We have heard the fears of others who suggest that jobs will be sucked across our border. Others fear that the real danger lies in environmental groups who will use the side agreements like a club to foster their own interests.

My State of Alaska, obviously, is very concerned. My constituents have shared their concerns with me, and I take these concerns very seriously.

We have been watching attitudes in Alaska, watching polling. It is fair to say that polling information shows that Alaskans are split on the question of NAFTA.

I am concerned with some of the proposals to fund NAFTA. I do not agree with the tax on international travel. NAFTA should be paid for by spending cuts, Mr. President, and not new taxes.

I do not agree with the environmental side agreements which attempt to create a new international commission that can review implementation of U.S. environmental laws by basically setting up a trilateral international commission that can review the implementation of U.S. environmental laws.

I have asked the U.S. Trade Representative to assure me that environmental agreements will not interfere with the resource development in my State. I have been provided with those assurances.

Nothing in NAFTA, or its side agreements, allows any international body to override any Federal or State laws. Further, a country can change its environmental laws to allow for higher levels of resource development without risking fines or sanctions.

In addition, it is clear that private individuals cannot use the Commission on Environmental Cooperation to bypass or override State and Federal courts.

And further, the stiffest penalty that could be assessed against any country is a fine or trade sanction, and the fines or sanctions would apply only if a country exhibited a persistent pattern of disregarding its own laws and refuses to agree to implement those laws.

Mr. President, I ask unanimous consent that a statement from the U.S. Trade Representative regarding these specific questions asked at the October 27, 1993 Senate Foreign Relations Committee hearing concerning NAFTA be printed in the RECORD.

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

DEPUTY U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, DC, November 12, 1993.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: I appreciated the opportunity to testify before the Senate Foreign Relations Committee on October 27, 1993 regarding the North American Free Trade Agreement, and welcome this chance to further clarify the provisions of the NAFTA by providing answers to your follow-up questions from that hearing. I apologize that the demands of finalizing the implementing legislation and other elements of the NAFTA package of transmittal to Congress prevented me from responding sooner.

I trust that these answers will help with your consideration of the NAFTA, and hope that we can count on your support for this historic agreement.

Sincerely,

RUFUS YERXA.

Attachment.

WRITTEN QUESTIONS FOR ADMINISTRATION, FOREIGN RELATIONS COMMITTEE HEARING ON THE NAFTA, OCTOBER 27, 1993

1. As you know, Alaska and Canada share a large boundary. And over the years we have had our share of disputes. Rivers cross boundaries. Fish cross boundaries. Animals, such as the Porcupine Caribou Herd, cross boundaries in their migratory paths.

Does the newly or the Environmental Side Agreement give another country or a private party the right to block development in areas in Alaska which might serve as a migratory path for transboundary wildlife or fish?

Does the newly created Environmental Commission have the power to take away the control of Alaska over the management of natural resources that cross boundaries. Article 10, Subsection 7 of the Environmental Side Agreement provides the Council with the authority to develop recommendations regarding transboundary issues.

Who will be consulted in making these recommendations?

Will the U.S. federal government be making the recommendation on behalf of Alaska? And what happens when the State disagrees with the recommendations of the Panel?

Who has the ultimate authority to control natural resources under this newly devised system?

Answer: Neither the NAFTA nor the side agreements change the authority to control natural resources in the United States. The ultimate authority to control natural resources remains where it is today—in the hands of the federal and state governments. Also, neither agreement gives another NAFTA country, or a private citizen, any right to block development in the United States or any state thereof (or in Canada or Mexico).

There is no private right of action created in the agreements, and our implementing bill specifically prohibits private rights of action. Private citizens can ask the environmental commission to do a factual report on environmental problems, but these reports are not binding and are not subject to sanctions of other forms of enforcement.

Recommendations and decisions of NAFTA entities do not have the force of law in the United States. Thus another NAFTA government or a NAFTA commission or dispute panel could not have the right to block development in Alaska or elsewhere in our territory. Under the NAFTA and the side agreement, each country retains the right to determine the appropriate levels of environmental protection and to develop its laws accordingly.

The Commission on Environmental Cooperation does not replace the State of Alaska's authority over its resource management decisions. Article 10, subsection 7 of the Environmental Side Agreement commits the three governments to consider transboundary environmental issues and develop recommendations on how to address them.

The U.S. Commissioner on the Council, the Administrator of the Environmental Protection Agency, will be the U.S. representative in this activity. Any recommendations the Council may develop are just that: recommendations. Any decisions to implement such recommendations would have to be made by each country's relevant domestic authorities. Recommendations for legislative changes, for example, could only be implemented through actions of the U.S. Congress or relevant state legislatures.

In carrying out its responsibilities under the environmental side agreement, EPA will work closely with other interested federal agencies, and the Administration will consult fully with the states. The agreement explicitly acknowledges the importance of subfederal consultation and advice in Article 18. EPA will provide, through new or existing advisory bodies, for full participation by state officials. Members of the public will also be consulted, through the Commission's Joint Public Advisory Committee and whatever additional domestic consultation processes each party chooses to provide.

2. As the Administration has tried to convince reluctant Senators and Representatives to vote yes on NAFTA, the press has been filled with reports of special deals being cut either outside of the NAFTA, or as part of the implementing legislation, or as a special addition to the side agreements. My concern about this horse trading is that we are taking the concept behind NAFTA, that is eliminating barriers to export and creating the world's largest market of 370 million people and 6.5 trillion dollars of production, and riddling it full of special deals for special interests.

Before I vote, I want this Administration to provide me with a list of every special deal that has been cut, either as part of the text, the side agreements, or the implementing legislation for particular industries or products since the signing of the supposedly "completed" text.

Answer: The NAFTA package that the President transmitted to Congress on November 3rd and 4th describes the complete set of agreements related to the NAFTA. These include the supplemental agreements on labor, the environment, and import surges; agreements concluded with Mexico relating to citrus products and to sugar and sweeteners; the border funding agreement with Mexico; letters agreeing to further negotiations to accelerate duty reductions, and a list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with the Senate Finance Committee. None of the letters pertaining to specific products contain permanent exceptions to free trade; all pertain to the transition from the status quo to free trade. As you know, the NAFTA already provides some differentiation in the pace of removal of barriers for different products and industries, depending on the sensitivity of those industries.

3. In material provided to my office, USTR indicated that NAFTA would have no effect

on the ability of the United States to utilize trade options such as those provided in the Pelly amendment to address environmental problems occurring outside the United States. However, in an Oct. 20 response to questions raised by Senator Stevens at a commerce Department hearing, the USTR indicated that any measure having an "environmental" purpose would be subject to the dispute settlement mechanism in Article 20 of NAFTA or Part 5 of the environmental side agreement. On its face, these statements appear contradictory. Please provide an explanation for this apparent conflict.

Answer: The apparent conflict between these statements is not a real one. First, the fact that procedures are available to the NAFTA countries to settle disputes in the event there is a challenge to a measure of one of the governments does not mean that a measure is affected by the NAFTA. We are not modifying the Pelly amendment as a result of the NAFTA; there is no amendment to Pelly included in the Proposed NAFTA implementing legislation. The NAFTA is not self-executing as a matter of U.S. law, and the implementing bill and Statement of Administrative Action make clear that the provisions of U.S. federal law prevail in the event of a conflict with the NAFTA.

As for the second statement, there appears to be a misunderstanding with regard to my earlier letter to Senator Stevens. The dispute settlement mechanism in Part Five of the *environmental side agreement* does not address the legitimacy of NAFTA-consistency of a Party's environmental laws; it addresses only the question whether a Party has engaged in a persistent pattern of failure to effectively enforce such laws. Most environmental laws are subject to this dispute settlement mechanism; however, laws whose primary purpose is "managing the commercial harvest or exploitation, or subsistence or aboriginal harvesting, of natural resources" are exempted.

My earlier answer to Senator Stevens concerned *Article 1114* of the NAFTA, in which the Parties agree not to relax "environmental measures" for the purposes of attracting investment. Article 1114 is *not* subject to NAFTA's Chapter 20 formal dispute settlement provisions. Article 1114 provides for consultations on request if one country believes another is not honoring this provision, but this article is not subject to dispute settlement or to trade sanctions.

For an environmental measure (or any other type of measure) to be subject to the dispute settlement provisions in Chapter Twenty of the NAFTA, it must be inconsistent with some provision of the NAFTA. With specific regard to issues raised by the Pelly Amendment, the Pelly Amendment already provides that action by the President is to be consistent with the GATT. NAFTA's rules in this regard are quite similar to those of the GATT.

4. Article 1114 of NAFTA prohibits the relaxation of environmental measures for the purpose of encouraging investment. However, it is unclear how this might be defined. For instance, if a restriction on U.S. activities in the EEZ (exclusive economic zone) were to be adopted for a conservation purpose—such as the existing regulation against taking of salmon in trawl fisheries—it would seem to fall under the dispute mechanism as an "environmental" measure.

What then, would occur if the United States subsequently decided it had a more desirable method of regulating trawlers, and allowed the retention of previously prohibited species?

Would one of the other principles be able to take that relaxation to dispute settlement?

What if one of the effects of the later action was, in fact, to stimulate investment by reducing fishery costs of operation—would that make a difference?

Answer: As an initial matter, choosing a more desirable way to achieve the same level of environmental protection would not be "relaxing" an environmental measure. Nor does it appear from the example cited that the purpose was to encourage investment.

Furthermore, an alleged infringement of the provisions of Article 1114(2) gives rise to an obligation to consult, but can not be taken to NAFTA dispute settlement and is not subject to trade sanctions.

5. As I understand it, there may be provisions subject to dispute settlement that are contained within an otherwise exempt statute, and vice-versa. Let's look at an example: the Marine Mammal Protection Act, which has as its purpose the conservation of marine mammals, but which also allows the Alaska Native Exemption, which allows unregulated harvests of marine mammals for subsistence and handicrafts. My understanding is that while the Act generally would be subject to dispute settlement, the specific provisions on Native harvests would be exempt. Is that your understanding?

What about a situation in which one of the other parties believes that Native harvests are having an adverse effect on the overall goal of the Marine Mammal Act?

Would that allegation be sufficient to bring the Native harvest provisions under the dispute settlement mechanism, and if not, where can that assurance be found?

Answer: For two independent reasons, the Marine Mammal Protection Act of 1972's Native harvest provisions would not be subject to dispute under the NAFTA side agreement on the environment.

First, the environmental side agreement contains an exemption for laws or provisions of laws whose primary purpose is "subsistence harvesting", which would include the Alaska Native Exemption from the MMPA.

Second, the dispute settlement provisions of the side agreement cannot be used to challenge a party's environmental laws, only the failure to effectively enforce those laws. Specifically, those provisions apply only to the question whether a party has engaged in a "persistent pattern of failure to effectively enforce" its own environmental laws. Even if native harvest provisions were viewed as environmental laws, there is no issue of failure of enforcement.

6. Has the USTR General Counsel prepared or received a legal analysis of the effect the NAFTA and/or the Environmental Side Agreement on state environmental regulations and state sovereignty? If such an analysis has been prepared, please provide my office with a copy.

Answer: No such analysis has been prepared. However, given the requirements and legal effect of NAFTA and the supplemental agreement, we do not believe that they will have any perceptible effect on state regulation or sovereignty in the environmental area. Chapters One, Seven B, and Nine of the Statement of Administrative Action provide an extensive discussion of NAFTA's effect on state laws and regulations.

As for the supplemental agreement, first, it has automatic preemptive effect in domestic U.S. law. Indeed, section 101(c) of the NAFTA implementing bill (S. 1627) specifically rules out any private cause of action against a state government under the agreement. Second, the agreement was drafted in a manner entirely consistent with state practice in the environmental area. The agreement sets certain very basic reguirements of the kind routinely implemented in state and federal environmental law and practice.

Finally, only one requirement in the agreement can be subjected to dispute settlement—the obligation to enforce effectively existing federal and state environmental laws. That requirement was written in a way that fully respects state prerogatives regarding prosecutorial discretion and the prioritization of state resources.

In sum, we believe that for the United States, NAFTA and the side agreement represent a reaffirmation of existing federal and state practices in the environmental area, rather than any intrusion on federal or state decision-making.

7. The State of Alaska has instituted a geographically-limited wolf control program to allow a depleted caribou herd to recover. It has been alleged by opponents that the real reason for the State's actions is to enlarge the herd to make more caribou available to hunter and thereby increase State revenues. Under the provisions of the NAFTA and/or the Side Agreement, could a private party characterize Alaska's decision as an "environmental measure" designed to "encourage an investment" as provided under Article 1144 of the NAFTA, or any other provision of the NAFTA or the Environmental Side Agreement?

Answer: No. Private parties have no standing to institute dispute settlement proceedings under the NAFTA or the side agreements. Only governments engage in consultations under Article 1114. Private parties could ask the Environmental Commission to have the Secretariat do a factual report on this matter, but such a report could not require the state to change its programs.

While the situation you describe does not appear to fall within even the consultative provisions of NAFTA or the side agreements, we would note that for any consultations regarding a state measure, the United States will work closely with the relevant state both in preparing for such consultations and in seeking a satisfactory resolution of the situation. Chapter One of the Statement of Administrative Action sets forth the Administration's intent regarding consultations with states in the event that a state measure is the subject of a NAFTA dispute settlement; these same procedures would be used for consultations under Article 1114.

8. The provisions of the NAFTA seem to indicate that any federal rule considered "environmental" in nature is subject to the dispute settlement provisions. Is this a correct understanding of the relevant provisions?

What is unclear is whether the NAFTA dispute settlement provisions also apply to rules that result from a delegation of authority from the federal government to the state? For example, in certain crab fisheries in the EEZ (exclusive economic zone) off Alaska and/or in regulations such as those previously adopted by the State of Alaska to control fish and wildlife use pursuant to Title VIII of the Alaska National Interest Lands Act.

And finally, do the provisions apply to rules adopted by individual states where the authority to establish such rules derives from the authorities reserved to the states under the U.S. federal system?

Who decides if a state's rule is "environmental" in nature for purposes of the dispute settlement provisions?

Answer: Whether a measure is subject to NAFTA's dispute settlement provisions is not contingent on whether it is an "environmental measure". The only place where NAFTA uses the term "environmental measure" broadly is Article 1114, for which, as noted above, the available remedy is consultations between the parties, not formal dispute settlement or sanctions.

The United States does generally assume the obligations of the NAFTA for both federal and state laws, including both delegated programs and state laws subject to state jurisdiction. Accordingly, it is possible that a state measure could be the subject of a NAFTA dispute settlement proceeding if one of our trading partners believed that measure was inconsistent with the NAFTA. (This is no different from the current U.S.-Canada Free Trade Agreement, where we recently successfully challenged the Canadian provinces' practices relating to the sale and distribution of imported beer as an unfair trade barrier.) One exception is in the case of standards-related measures under Chapter Nine of the NAFTA. There, the obligation of the federal government is simply to "seek, through appropriate measures, to ensure observance" by state and local governments.

As set forth explicitly and at length in the Statement of Administrative Action for Chapter One of the NAFTA, the United States will seek to involve relevant state officials to the greatest extent possible at every stage of the proceeding if a state's measure becomes subject to challenge.

Finally, NAFTA dispute settlement panel reports have no effect under the law of the United States. Neither federal agencies nor state governments are bound by any finding or recommendation included in such reports (although a NAFTA country who successfully challenges a U.S. measure has a right to take retaliatory action equivalent to the trade damage caused by our action). Where the matter involves a law or regulation of a state, any resolution would be reached in consultation and coordination with the state concerned.

9. If Congress voted to waive a specific environmental provision to allow construction of, for example, a pipeline for petroleum products, could that action be challenged as a violation of the provisions of the NAFTA or the Environmental Side Agreement?

Answer: Congressional action to waive a specific environmental provision to allow construction of a petroleum pipeline would not be subject to challenge under the NAFTA dispute settlement provisions or those of the environmental side agreement. Governments remain free under the NAFTA and the side agreement to determine the level of environmental protection they determine appropriate, and to adopt or modify their laws accordingly. Accordingly, a government could provide a waiver or other derogation because it determined that was appropriate in light of the level of environmental protection it desired.

The environmental supplemental agreement affirms each country's rights to determine its own laws, while encouraging high standards and effective enforcement of those laws. (See Article 3, which explicitly recognizes "the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations.")

As noted above, Article 1114 of the NAFTA does provide that parties should not relax their environmental standards in order to attract or retain investment, and provides a process for consultation between the parties if one country believes that the other is acting contrary to this provision. We do not believe the situation described falls within the ambit of Article 1114, but issues under that Article are not subject to dispute settlement in any event.

Mr. MURKOWSKI. Mr. President, still we have those who are concerned that the environmental agreement could be abused, that it could become a new avenue for environmental terrorism, so to speak. But I think it is fair to recognize that the head of the Environmental Protection Agency, who is the U.S. representative on the Environmental Commission, would have many, many more effective ways to stop development than through participation in the commission set up by the NAFTA environmental side agreement.

Despite these concerns, the future of my State of Alaska and of the great fortune of western America lies in open markets, responsible resource development, and greater exporting. Certainly my State which is exporting virtually all we produce—our fish, timber, our gas, oil, coal, with the exception of our oil—recognizes the importance of trade.

A North American Free-Trade Zone will soon become a reality. There is no question about that. The future lies in opening trade with the very countries that our President is meeting with today in Seattle, those in the Pacific rim.

So for Alaskans, Mr. President, this is particularly gratifying because Alaskans are free traders. Alaskans are independent, intelligent, aggressive, and they are risk takers. They are entrepreneurs as well.

Alaska's economy, most importantly, is based on export. Between 1982 and 1992, Alaska's exports grew 154 percent to reach $3.9 billion. If increased exports from Mexico would stimulate $2.5 million in new business in Alaska, imagine the effect of an Asian-Pacific-U.S. free trade zone. That is what the future is all about as we look towards tomorrow.

There is some indication that NAFTA may lead to the lifting of the ban on the export of oil from Alaska, a protectionist policy of the worst kind which denies Mexico the opportunity to sell its oil on the west coast of the United States and denies the State of Alaska the full value of its oil and the opportunity to have its oil priced on a free market system. We take the first step in that direction today.

And to those who are concerned about the aspects associated with union membership, I would encourage them to recognize the benefits of job creation associated with growth and what we can learn from history.

Mr. President, some people say we should learn from history. Others say we learn, but not much. It would do us all good to look back to the 1930's and recognize the implication of Smoot-Hawley, what it did to trade and commerce throughout the world and how it contributed to the Depression. We must recognize that we have in the past an experience that should teach us something about the merits of NAFTA today.

Mr. President, in conclusion, I think NAFTA is the right thing to do for the country, and that if it is not, I intend to be here in 6 months leading the fight to end our participation.

Mr. President, I further ask unanimous consent that a statement by the State of Alaska Governor's office evaluating the impact of NAFTA on Alaska be entered into the RECORD.

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

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Washington, DC, November 8, 1993.

To: Gregg Renkes, Chief of Staff to Senator Frank Murkowski.

From: Mark Dinneen, Associate Director for Commerce, Finance and Transportation.

Through: John W. Katz, Director of State/Federal Relations and Special Counsel to the Governor.

Subject: NAFTA assessment.

Attached, as you requested, is a delineation and assessment of the most significant impacts the NAFTA would be expected to have on the State of Alaska.

NAFTA AND ALASKA

The original agreement, negotiated by the Bush administration, is issued in five volumes. The first volume, 22 chapters in eight parts, contains the provisions of the agreements. The other four volumes contain annexes and tariff schedules.

There are 3 supplemental agreements negotiated by the Clinton administration. They are: (1) Environmental Cooperation, (2) Labor Cooperation, and (3) Emergency Action (import surges).

Discussed below are the sections of the NAFTA which are seen to have a particular relevance to Alaskan interests. Those sections are: Chapter 3, National Treatment and Market Access for Goods; Chapter 6, Energy and Basic Petrochemicals; Chapter 12, Cross-Border Trade in Services; Chapter 14, Financial Services; and Side Agreement on Environmental Cooperation.

CHAPTER 3, NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS.

NAFTA will not impact the ANS export ban, the Jones Act, the Merchant Marine Act or the Passenger Vessel Act. The Merchant Marine Act and the Passenger Vessel Act are specifically exempted. The U.S. must, however, define the terms "repair" and "rebuilding" as they relate to the two acts. Similarly, Mexico reserves to itself most vessel operations.

U.S. export of unprocessed logs is exempted from treatment by NAFTA, as are export of logs and unprocessed fish from Canada.

CHAPTER 6, ENERGY AND BASIC PETROCHEMICALS

Basic energy remains immune to free trade. Mexico reserves for Mexican firms and exploration and development of crude oil and natural gas. The NAFTA was partially successful in liberalizing cross-border trade in electricity and natural gas. The agreement permits U.S. and Canadian natural gas and

electricity suppliers make contracts directly with Mexican firms. All agreements, however, must be reviewed by Pemex or CFE, which gives these national monopolies the ability to block or delay international contracts.

At present Alaska's most significant exports to Mexico are ammonia and urea from the Kenai Unocal plant. On average, less than $5 million of product a year is shipped to buyers in the trade free zone in north western Mexico. Unocal supports the NAFTA. Most especially because of plant capacity, however, it does not foresee any large scale increase in sales to Mexico from the Kenai plant.

The NAFTA was successful in liberalizing investment and trade in the coal industry. Mexico will eliminate its 10 percent tariff on coal immediately and will guarantee national treatment to coal imported from the United States or Canada. Though the agreement will give Alaskan coal an edge over non-NAFTA coal, the greatest barrier to the export of Alaska's vast coal reserves will remain the cost and availability of transportation to tidewater.

CHAPTER 12, CROSS-BORDER TRADE IN SERVICES

The gist of this chapter is to provide that a Canadian or Mexican professional would expect the same treatment as an American with respect to occupational licensing and certification in this country. Nothing in NAFTA waives the requirement for local license in order to practice a profession. In Alaska this would mean we would be expected to treat a Mexican or Canadian applicant no differently (positively or negatively) than an applicant from Alaska or another U.S. state.

Alaska would keep and maintain its own professional licensing and certification standards. Under NAFTA those standards are expected to be based on objective and self-evident criteria, such as competence and the ability to provide a service. The standards are not to be unnecessarily onerous, and are not to constitute a disguised restriction on the cross-border trade in services. Within one year of the passage of NAFTA, the state would have to declare any bona-fide restriction we intend to maintain against cross-border trade in services.

In the case of violation of this chapter, the penalty is but a countervailing restriction on Alaskans for whatever professional disciplines Mexicans or Canadians cannot get licenses for in Alaska.

CHAPTER 14, FINANCIAL SERVICES

One section of NAFTA that does suggest direct promise for Alaska is the Financial Services chapter. US financial service markets are much more sophisticated than Mexico's and to a smaller degree, more sophisticated than Canada's. The NAFTA would create economic development opportunities, especially in substantially under insured Mexico. Exploitation of these opportunities would, of course, be available to Alaska based firms.

Greater freedom for Alaskan firms to enter the Mexican market, of course, also means greater freedom for Canadian and Mexican firms to enter Alaska's markets. The Division of Insurance has reviewed NAFTA, and reports that the State of Alaska will retain authority over the insurance industry, and that the State's authority to regulate the industry will not be pre-empted by either the Federal Government or by NAFTA.

Most of our insurance laws are non-discriminatory, and apply equally to any insurer, State, domestic or foreign. As such our law and regulation would not be greatly impacted by NAFTA. The NAFTA provides for the State to reserve, or grandfather, provisions of our law which are in force within 1 year of the adoption of NAFTA. Although a complete review is not yet complete, it seems unlikely that much use of this reserve designation will be necessary. One possibility for reserve status is deposit requirements for non US insurers.

SIDE AGREEMENT ON ENVIRONMENTAL COOPERATION

Even without the additional side agreement, the NAFTA was heralded as a landmark accord for handling environmental issues in a trade agreement. The language would allow state government standards to be stricter than international standards when stricter measures are permitted under federal law.

The thrust of the environmental side agreement is to create a mechanism by which pressure could be exerted on a country to enforce its own environmental standards. A new commission, called the Commission for Environmental Cooperation (CEC) would be created by terms of the agreement. The CEC could be called upon when one country accused another of a persistent pattern of failure to effectively enforce its own environmental laws. The CEC could put forward a plan to resolve the claim, or the parties could agree to an action plan. If the plan were not implemented, a fine of up to $20 million could be imposed. If the country complained against (except Canada) continued to refuse to implement the plan, trade sanctions could be imposed in sufficient amount to pay the fine.

An additional function of the CEC would be to consider and develop recommendations regarding the environmental impacts of activities within one country that have or may have significant trans-boundary effects. It will also consider issues of public access to information, appropriate limits for specific pollutants, and reciprocal access rights and remedies for damage or injury resulting from trans-boundary pollution.

The CEC would be comprised of a ministerial council of the top environmental official of each country. The counsel would create a central secretariat staffed by nationals of each country (in direct proportion to population) and a Joint Public Advisory Committee of five public members from each country. Independent parties could submit information to the CEC, and the CEC could contract the work of experts. The agreement does not grant the CEC power to compel firms and municipalities to open their doors and books to provide information. The council will administer the agreement, including the dispute settlement procedures.

NAFTA AND ANWR

Perhaps the most contentious aspect of the NAFTA for Alaska is the suggestion that the NAFTA could restrict the development of ANWR. There is foundation in this concern, but it is important to understand the conditions and process under and by which an international dynamic would affect what is otherwise a domestic decision.

The main charge of Commission for Environmental Cooperation (CEC), is with respect to a country's enforcement of its own environmental laws and standards. Under this authority of the CEC, development of ANWR would first of all have to have been authorized by Congress. The subsequent exploration and development would have to then otherwise violate US law. The US would have to then be guilty of persistently failing to enforce its law and stem the violations. At this point, the CEC could be called into play, and the following would occur:

1. The Canadian or Mexican federal government would file a "submission" to the secretariat alleging a failure of the US to enforce a national environmental law.

2. The Secretariat would create a factual record. The factual record could be made public if 2 of the 3 NAFTA Commissioners agree.

3. The countries would then be given 60 days to consult.

4. If the dispute is not resolved, an arbitration panel would be established. This would require a 2/3 Commission vote. The panel would issue an initial report within 180 days. A final report would be issued within the following 60 days.

5. If the panel rules that there has been a persistent pattern of failure to enforce environmental law, the parties would be allowed to negotiate a mutually satisfactory settlement.

6. If there is no settlement, within 60 to 120 days, the panel would be reconvened to consider a plan.

7. If the plan adopted by the panel is not fully implemented, the panel can determine a fine, not to exceed $20 million per infraction.

8. If the fine is not paid, the complaining country could be allowed to invoke trade sanctions. Trade sanctions are limited to the withdrawal of NAFTA benefits in amount not to exceed the fine.

Otherwise, the CEC is charged with studying and issuing recommendations regarding trans-boundary and border environmental issues. It is conceivable that the US, Canada or Mexico could lead the CEC towards studying the trans-boundary effect of development of ANWR. Although the report have the imprimatur of the CEC, it would not otherwise have any effect with respect to the CEC's role in dispute settlement, unless the US Congress acted on a recommendation of the CEC to restrict development of ANWR.

NAFTA AND ANWR, CONCLUSION

Use of the NAFTA to restrict the development of ANWR, therefore, could occur under two different scenarios.

The first type of situation would first require that our own Congress had voted to permit development. Subsequent development would then have to violate federal environmental law. The US would then have to persistently fail to enforce its own law. This scenario seems very unlikely.

The more likely problem created by the NAFTA is the second possibility. That is the Commission for Environmental Cooperation is compelled to author a report which suggests an untoward trans-boundary impact of the development of ANWR. The ministers would have to agree that a report should be undertaken. Once written, unless all three CEC ministers agree to block the report, it would be published. Although the report would have no impact with respect to the violation of or enforcement of NAFTA provisions, it could be used to apply international pressure and attention on the Congress and the President.

Mr. MURKOWSKI. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the quorum call will be called, and the time will be charged to the opponents on the minority side.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. EXON. Mr. President, I am asking a question of the Chair, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. What is the pending business before the Senate?

The PRESIDING OFFICER. The unanimous-consent agreement to debate the North American Free-Trade Agreement.

Mr. EXON. Mr. President, a further parliamentary inquiry.

Do I understand that the time is further inquiry of the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. Do I understand that the time on the amendment, which is limited, is being equally divided and charged to both sides under the present situation, including the quorum calls that we have been experiencing?

The PRESIDING OFFICER. The Senator is not correct. Under normal circumstances that would be the effect, but under the unanimous-consent agreement the roll calls are being charged to the opponents on the Republican side.

Mr. EXON. Mr. President, I ask unanimous consent of both sites that the Senator from Nebraska be allowed some time before the final vote, 10 minutes each, for a total of 20 minutes, 10 minutes from the proponents and 10 minutes from the opponents of the measure pending.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have to object to that request.

I understand the Senator wants to speak. I might say to the Senator there are roughly 8 hours remaining on the North American Free-Trade Agreement. The Democratic side in favor has about 2 hours remaining. Senator MOYNIHAN, who is representing Senators on the Democratic side who are against it, have roughly a half hour remaining, and the remaining time is allocated somewhat proportionately on the Republican side.

I think we will find the time for the Senator from Nebraska. If he wishes to speak, I might suggest he make arrangement with whoever is managing the time on the side that the Senator from Nebraska finds himself voting on.

Mr. EXON. Suppose I advise the two Senators that the Senator from Nebraska has not yet made a determination.

Mr. BAUCUS. I respectfully suggest to the Senator from Nebraska the earlier he makes a determination the more easily he will find a solution to the Senator's problem.

Mr. EXON. I see with the time restraint that has been given out from time to time one has best go to the majority leader, who is supposed to divide the time. The Senator from Nebraska will do that and try. I thought that both sides could accommodate 10 minutes each to the Senator from Nebraska. If that is impossible, I will do whatever I can to overturn that.

Mr. BAUCUS. Mr. President, if I might make a suggestion, one would be if the Senator wishes to speak now.

Mr. EXON. I am not prepared to speak at this time. I am still considering my position. I want to write my talk. I simply am asking for 10 minutes from each side, a total of 20 minutes, to the Senator from Nebraska. I renew that request.

Mr. BAUCUS. I will say to the Senator I will make every effort to accommodate the Senator's request. There are various ways with which we can do it. For example, we could allocate the time equally among the four designees or maybe half and half. I think we will find a way to accommodate the Senator. I will make every effort to help the Senator find time to speak at least 10 or 15 minutes.

Mr. EXON. I thank the Chair.

COMMITTEE STATEMENTS ON THE NAFTA

Mr. MOYNIHAN. Mr. President, today the Committee on Finance, by a vote of 16 to 4, and other committees of jurisdiction reported S. 1627, the North American Free-Trade Agreement Implementation Act. I ask unanimous consent that the following statements by the Committee on Finance, Governmental Affairs, the Judiciary, and Foreign Relations, and the letter by the Congressional Budget Office be inserted in the CONGRESSIONAL RECORD.

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

STATEMENT OF THE COMMITTEE ON FINANCE ON S. 1627 THE NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT (NAFTA)

The Committee on Finance, to which was referred the bill to approve and implement the NAFTA, having considered the same, reports favorably thereon and recommends that the bill do pass.

SUMMARY OF CONGRESSIONAL CONSIDERATION OF THE NAFTA

The various steps involved in Congressional consideration of the NAFTA, pursuant to procedures established in the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974, are summarized below.

A. "Fast track" authority in general

The requirements for Congressional consideration of the NAFTA under expedited procedures (known as "fast track") are set forth in sections 1102 and 1103 of the Omnibus Trade and Competitiveness Act of 1988 and section 151 of the Trade Act of 1974.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 authorized the President, prior to June 1, 1993, to enter into trade agreements with foreign countries providing for the elimination or reduction of tariffs and non-tariff barriers. (The Omnibus Trade and Competitiveness Act of 1988 provided fast track procedures through June 1, 1991, with the possibility that the fast track implementation process could be extended to trade agreements entered into prior to June 1, 1993 if the President so requested and neither House of Congress disapproved of such extension before June 1, 1991.)

On March 1, 1991, President Bush notified the Congress that he was requesting an extension of fast track procedures until June 1, 1993 in order to complete the Uruguay Round of Multilateral Trade Negotiations and to initiate and complete the NAFTA negotiations with Mexico and Canada. In mid-March, the Chairmen of the Senate Committee on Finance and the House Committee on Ways and Means, and the House Majority Leader, wrote to President Bush conveying a number of concerns about free trade with Mexico, particularly with respect to environmental and labor issues (addressing both concerns about lax Mexican enforcement and the need for an adequate U.S. program to assist workers adversely affected by an agreement). On May 1, 1991, the President responded to those letters with a set of "action plans" intended to address the environmental and labor concerns, as well as a statement of the Administration's views on the economic impact of the proposed agreement. On May 23, 1991, the House of Representatives, by a vote of 231-to-192, failed to disapprove the extension requested by President Bush. On May 24, 1991, the Senate, by a vote of 59-to-36, also failed to disapprove the extension request.

B. Notification prior to negotiations

Under section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, regarding bilateral trade agreements, the President must notify the Committees on Finance and Ways and Means concerning trade negotiations at least 60 days (including only days in which the particular House of Congress is in session) before he notifies the Congress of his intention to enter into any such trade agreement. Either Committee has the authority, under section 1103(c), to disapprove the negotiations during that 60-day period, the effect of which is to eliminate the application of "fast track" procedures to legislation to implement the agreement.

President Bush notified the two Committees on September 25, 1990 of his intention to begin negotiations with Mexico. (This followed a Joint Statement issued on June 11, 1990 by Presidents Bush and Salinas endorsing the objective of a free trade agreement; joint recommendations on August 8, 1990 to the Presidents from Ambassador Hills and Mexican Secretary of Commerce and Industrial Development Serra Puche concerning the initiation of trade negotiations; and a letter dated August 21, 1990 from President Salinas to President Bush formally proposing the initiation of free trade negotiations.) On February 5, 1991, President Bush notified the Committees that Canada (with which the United States had entered into a free trade agreement on January 2, 1988 that was subsequently approved by the Congress), also would participate in the negotiations. Neither Committee exercised its authority under section 1103(c) to disapprove the negotiations.

C. Notification of intent to enter into an agreement

Under section 1103(a) of the Omnibus Trade and Competitiveness Act of 1988, the President also is required to notify the Congress

of his intent to enter into a trade agreement at least 90 calendar days before doing so. At the same time, the advisory committees on trade negotiations, established under the Trade Act of 1974, must submit reports on the agreement. During the period between notification and entering into the agreement, the President is required to consult with the appropriate Committees of jurisdiction concerning subject matter affected by the agreement.

The United States commenced the NAFTA negotiations with the Governments of Mexico and Canada in June 1991. The three Governments announced on August 12, 1992 that they had reached an agreement, and the Administration issued a negotiated summary of the agreement. President Bush notified the Congress on September 18, 1992 of his intent to enter into the NAFTA and submitted the required advisory committee reports, in accordance with the 90-day notice requirement. On October 7, 1992, Presidents Bush and Salinas and Canadian Prime Minister Mulroney met in San Antonio, Texas to discuss plans for implementing the NAFTA, and the three countries' trade ministers initialed the draft legal text of the NAFTA. On December 17, 1992, ninety days after President Bush had provided the required notice, the United States, Mexico, and Canada entered into the NAFTA.

Subsequently, the Clinton Administration negotiated supplemental agreements to the NAFTA on environmental cooperation and labor cooperation, as well as an understanding concerning emergency action under Chapter 8 of the NAFTA (special safeguards for unexpected import surges). The three Governments announced on August 13, 1993 that they had completed those negotiations. The supplemental agreements establish procedures for evaluating the adequacy of the three countries' enforcement of their environmental and labor laws. The agreements were signed on September 14, 1993. The United States and Mexico also subsequently negotiated a bilateral agreement for funding environmental infrastructure projects in the U.S.-Mexican border region.

D. Development of the implementing legislation

In practice under the "fast track," Congress and the Administration have worked together to produce the legislation to implement trade agreements. The drafting occurs in informal meetings of the Committees with jurisdiction over laws that must be amended to implement the agreement, and then in House-Senate conference meetings. The objective is to produce one bill to be transmitted by the House and Senate Leadership to the President as the recommended legislation to implement the trade agreement. The drafting is done in close consultation with the Administration in an effort to ensure that the legislation faithfully implements the agreement and that the Administration's subsequent formal submission is, to the greatest degree possible, consistent with the legislation recommended by the Congress.

In meetings in October 1993, the Committee on Finance considered and made recommendations for the implementing bill. Subsequent to those meetings, the Committees on Finance and Ways and Means resolved differences in the recommendations of the two Committees. Other Committees of the Senate and House also considered provisions of the implementing legislation within their respective jurisdictions.

On November 2, 1993, the Majority Leader of the Senate and the Speaker of the House transmitted proposed implementing legislation, containing the recommendations of the various Committees of jurisdiction, to the U.S. Trade Representative (USTR).

E. Formal submission of the agreement and legislation

When the President formally submits a trade agreement to the Congress under section 1103, he must include in that submission the final text of the agreement, together with implementing legislation, a Statement of Administrative Action (describing regulatory and other changes that are necessary or appropriate to implement the agreement), and other supporting information. The implementing bill itself must contain provisions formally approving the agreement and the Statement of Administrative Action and proposing amendments to current law or new authority necessary or appropriate to implement the agreement. The implementing legislation is introduced in both Houses of Congress on the day it is submitted by the President and is referred to Committees with jurisdiction over its provisions.

President Clinton transmitted the final text of the NAFTA, along with implementing legislation, a Statement of Administrative Action, and other supporting information, as required by section 1103(a) of the Omnibus Trade and Competitiveness Act of 1988, to the Congress on November 4, 1993. The legislation was introduced the same day in both the House and the Senate. (The supplemental agreements, along with the agreement with Mexico on border funding and other materials, were transmitted separately to the Congress by the President on November 4.) The implementing bill reported here, which approves the NAFTA and the Statement of Administrative Action and contains a number of additional provisions necessary or appropriate to implement the NAFTA into U.S. law, was referred to six Senate Committees of jurisdiction.

F. Committee and floor consideration

Where all of the preceding requirements have been satisfied, implementing revenue bills, such as the NAFTA bill, are subject under the "fast track" procedures of section 151 of the Trade Act of 1974 to the following schedule of Congressional consideration:

(1) House Committees have up to 45 days in which to report the bill; any Committee which does not do so in that period will be automatically discharged from further consideration.

(2) A vote on final passage by the House must occur on or before the 15th day after the Committees report or are discharged.

(3) Senate Committees must act within 15 days of receiving the implementing revenue bill from the House or within 45 days of Senate introduction of the implementing bill, whichever is longer, or they will be discharged automatically.

(4) The full Senate then must vote within 15 days.

Thus, Congress has a maximum of 90 days in which to complete action on the bill, although that time period can be shortened. (The 90-day period excludes the days either House is not in session because of an adjournment of more than three days to a day certain or an adjournment *sine die*, and any Saturday or Sunday when either House is not in session.)

Once the implementing bill has been formally submitted by the President and introduced, no amendments to the bill are in order in either House of Congress. Floor debate in each House is limited to no more than 20 hours.

The Committee on Finance ordered S. 1627 favorably reported on November 18, 1993.

COMMITTEE ON FINANCE ACTIONS

From February 1991 through September 1993, the Committee on Finance held 15 hearings on the NAFTA. Five of the hearings were held in 1993. In those hearings, the Committee heard testimony from Ambassadors Hills and Kantor, other officials of the Executive Branch, representatives of U.S. business, labor, agriculture, and environmental organizations, and academics concerning the NAFTA and the supplemental agreements on environmental cooperation and labor cooperation. In addition, the Committee held numerous executive sessions with Ambassadors Hills and Kantor, in which the Committee was briefed extensively on specific provisions of the NAFTA and the supplemental agreements on environmental cooperation and labor cooperation.

OVERVIEW OF THE NAFTA

A free trade agreement such as the NAFTA is an arrangement between two or more countries in which each removes tariff and other restrictions on trade between those countries. Article XXIV of the General Agreement on Tariffs and Trade (GATT) permits free trade areas as a deviation from the principle of non-discrimination (most-favored-nation (MFN) treatment) in Article I of the GATT if the agreement meets certain criteria. Most significantly: (1) the free trade area must eliminate duties and other restrictive measures on "substantially all" trade between the parties; and (2) duties and other regulations of commerce maintained by the parties may not be higher or more restrictive to the trade of third countries than they were prior to the agreement.

The NAFTA is the third free trade agreement to which the United States is a party, following the agreements concluded with Israel in 1985 and with Canada in 1988. (The relationship of the NAFTA to the U.S.-Canada Agreement is explained in the description of section 107 of this bill.)

The NAFTA is organized as follows: Part One includes the general objectives, including the NAFTA's relationship to other agreements, and definitions. Part Two, containing the Agreement's major trade liberalizing provisions, covers Chapters 3 through 8. These include provisions on the elimination of tariffs; drawback and other customs programs; rules of origin for determining whether goods have sufficient North American content to qualify for preferential treatment under the NAFTA; trade in automotive goods and in textiles; energy and petrochemicals; agriculture (including sanitary and phytosanitary measures); and emergency actions (bilateral and global safeguards).

Part Three concerns standards-related measures (technical barriers to trade). Part Four covers government procurement rules and procedures. Part Five establishes the rules governing investment, cross-border trade in services, telecommunications, financial services, competition policy, and the temporary entry of business persons. Part Six sets out the rules for protection of intellectual property rights. Part Seven establishes the procedures for review and dispute settlement in antidumping and countervailing duty matters, as well as the general institutional arrangements and dispute settlement procedures. Finally, Part Eight includes both the exceptions from NAFTA coverage and provisions on the entry into force and related matters.

In addition to the 22 chapters of text, the NAFTA includes the tariff schedules of each of the three parties, and annexes setting out the specific rules of origin and the reservations and exceptions taken by each country

with respect to the commitments on investment, cross-border trade in services, and financial services.

Not all provisions of the NAFTA are reflected in the implementing legislation. In fact, most of the obligations do not require any U.S. action to effect implementation, because U.S. law and practice already are consistent with the terms of the NAFTA. Other obligations can be implemented through administrative action, as set forth in the Statement of Administrative Action submitted to the Congress with the NAFTA and implementing bill on November 4. Finally, many provisions of the NAFTA, in areas such as energy, investment, and financial services, only necessitate changes in the laws and regulations of Mexico.

GENERAL DESCRIPTION OF THE BILL

Section 1: Short title and table of contents

Section 1 entitles the Act the "North American Free Trade Agreement Implementation Act" and lists the Table of Contents.

Section 2: Definitions

Section 2 defines key terms used throughout the Act.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

Section 101: Approval and entry into force

Approval.—Section 101(a) provides that, pursuant to the requirements of section 1103 of the Omnibus Trade and Competitiveness Act of 1988 and section 151 of the Trade Act of 1974, the Congress approves the NAFTA entered into on December 17, 1992 with the Governments of Canada and Mexico and submitted to the Congress on November 4, 1993, and the Statement of Administrative Action proposed by the Executive Branch to implement the NAFTA and submitted to the Congress on November 4, 1993.

Conditions for entry into force.—Section 101(b) establishes conditions for the NAFTA's entry into force, implementing Article 2203 of the NAFTA. It authorizes the President to exchange notes with the Government of Canada or Mexico providing for the NAFTA's entry into force, on or after January 1, 1994, with respect to such country, but establishing certain conditions for such entry into force.

First, the President shall determine that such country has implemented the statutory changes necessary to comply with its NAFTA obligations and has made provision to implement the Uniform Regulations on rules of origin under article 511 of the NAFTA. The President shall transmit a report to the Congress setting forth this determination, as well as a description of the measures taken by Mexico to bring its antidumping and countervailing duty laws into conformity with Annex 1904.15 of the NAFTA and to ensure effective implementation of the binational panel review process under Chapter 19 of the NAFTA.

Second, the Government of such country shall exchange notes with the United States providing for the entry into force, for that country and the United States, of the environmental and labor supplemental agreements (the North American Agreement on Environmental Cooperation and the North American Agreement on Labor Cooperation).

The purpose of this provision, coupled with commitments made in the Statement of Administrative Action, is to make clear that the President will exchange notes permitting the NAFTA's entry into force with respect to Canada or Mexico when such country has satisfied both of the above requirements, and the President has reported to Congress with respect to the first of these.

Section 102: Relationship of the NAFTA to the United States and State law

Relationship to U.S. law in general.—Section 102(a)(1) provides that no provision of the NAFTA, nor its application, which is inconsistent with any U.S. law shall have effect. Section 102(a)(2) provides that, unless specifically provided for in this implementing bill, nothing in this bill shall be construed to amend or modify any U.S. law, including any law concerning the protection of human, animal, or plant life or health, the environment, or motor carrier or worker safety.

These provisions conform with and reflect the Committee's understanding that any necessary changes in Federal laws must be enacted specifically by the Congress; the NAFTA is not self-executing and therefore has no independent effect under U.S. law. The Committee is not aware that any action, aside from what is included in this bill and the Statement of Administrative Action, is necessary to implement U.S. obligations under the NAFTA. If in the future a NAFTA dispute settlement panel were to determine that a particular U.S. law was inconsistent with the NAFTA, the Congress would retain the full authority to determine whether or not to amend or modify that law.

Section 102(a)(2) provides further that nothing in this bill shall be construed to limit any authority conferred under section 301 of the Trade Act of 1974. The Committee notes that the Statement of Administrative Action submitted to the Congress on November 4, 1993 expressly states that the NAFTA does not amend or limit remedies available under section 301, and that the USTR will maintain its full authority to take retaliatory actions and other measures under section 301 should another NAFTA country engage in practices that are subject to that provision. The Committee strongly believes that the NAFTA should not, and does not, in any manner restrict the remedies available to the U.S. Government under section 301.

Relationship to State law.—Section 102(b) sets out the relationship of the NAFTA to State law and defines the process for carrying out U.S. obligations under the NAFTA, as applied to the States, through extensive consultations with State officials.

Section 102(b)(1) expands significantly on the U.S.-Canada Free Trade Agreement Implementation Act of 1988 (the CFTA Act) in establishing a detailed process for Federal-State consultation. This process is elaborated upon in the Statement of Administrative Action.

The President shall consult with the States through the Intergovernmental Policy Advisory Committee on Trade (IGPAC) established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984. In addition, the USTR shall establish an expanded consultative process to address particular issues that arise under the NAFTA. This process shall include (1) assisting the States in identifying measures that may not conform with the NAFTA but may be maintained because they were in effect prior to the NAFTA's entry into force (*i.e.*, those that are "grandfathered"); (2) informing the States concerning any matter arising under the NAFTA that directly relates to, or may have a direct impact on, them; (3) providing the States with the opportunity to submit information and advice with regard to such matters; (4) taking into account such information and advice in formulating U.S. positions; and (5) involving the States, to the greatest extent practicable, at each stage of the development of U.S. positions with respect to such matters (whether they are before a committee, subcommittee, or working group established by the NAFTA or are to be decided by a dispute settlement panel).

Section 102(b)(1) also clarifies that this Federal-State consultative process does not create an "advisory committee" under the Federal Advisory Committee Act.

Section 102(b)(2) establishes that no State law, nor its application, may be declared invalid on the ground of being inconsistent with the NAFTA, except in an action brought for such purpose by the United States. This provision makes clear that the NAFTA does not automatically preempt State laws that do not conform to its provisions—even if a NAFTA dispute settlement panel were to determine that a particular State measure was inconsistent with the NAFTA. In view of the extensive consultation procedures provided under section 102(b)(1), the Committee anticipates that only in rare instances will State laws be found to be inconsistent with the NAFTA. Should that occur, this bill envisions that the Federal Government will do everything possible to encourage voluntary compliance by the States with the NAFTA. It is the Committee's expectation that court actions to compel State adherence would be brought by the United States only in the most limited circumstances and only as a last resort.

Definition of "State law".—Section 102(b)(3) defines "State law"; the specific reference to any such law regulating or taxing the business of insurance is intended to address section 2 of the McCarran-Ferguson Act, which provides that no Federal statute is to be construed to supersede any State law regulating or taxing the business of insurance unless the Federal statute specifically relates to that business.

No private rights of action.—Section 102(c) provides that no person other than the United States shall be able to challenge any action or inaction by either the Federal or a State government (or its subdivision) on the ground that this is inconsistent either with the NAFTA or the environmental or labor supplemental agreement. This express preclusion of private rights of action based on the NAFTA or the supplemental agreements further clarifies the limited circumstances and defined procedures for challenges to U.S. or State laws based on their alleged inconsistency with the NAFTA.

Section 103: Consultation and layover requirements for, and effective date of, proclaimed actions

Certain actions that must be undertaken in order to implement the NAFTA pursuant to this bill are authorized to be proclaimed by the President rather than enacted directly. This bill authorizes the President to proclaim certain actions immediately. The President is further authorized, in certain circumstances, to take future actions by proclamation. In those circumstances, it is essential to ensure adequate consultation with the Congress and the private sector before the action is taken. This is accomplished by requiring both consultation and a layover period prior to Presidential proclamation.

Section 103(a) provides that, if a provision of the implementing bill subjects implementation of an action by Presidential proclamation to consultation and layover requirements, such action may be proclaimed only if three procedural requirements are met:

(1) the President has obtained advice regarding the proposed action from appropriate private sector advisory committees

and from the International Trade Commission (ITC);

(2) the President has submitted a report to the Committees on Finance and Ways and Means setting forth the proposed action and reasons therefor and the advice obtained; and

(3) at least 60 calendar days have expired since submission of the report, and the President has consulted the Committees during that period.

This three-step process applies to the following provisions: (1) tariff modifications, including any acceleration of tariff staging agreed to by the Parties; (2) modifications to specific rules of origin in Appendix 6.A of Annex 300-B and Annex 401, the automotive "tracing" requirements in Annexes 403.1 and 403.2, and the regional value-content provision in Annex 403.3 of the NAFTA; and (3) modifications in provisions of the bill that enact Article 415 (rule of origin definitions) agreed to by the Parties during the first year after enactment of the implementing bill.

Initial proclamations authorized in this bill (tariff modifications to implement schedules of duty reductions, basic and specific rules of origin, various customs provisions) that are not subject to these consultation and layover requirements may not take effect earlier than 15 days after the proclamation is published in the *Federal Register*.

The Committee notes further that this bill does not provide expedited legislative consideration for any changes in statutes needed for future amendments to the NAFTA. It is expected that normal legislative procedures would apply to any such legislation.

Section 104: Implementing actions in anticipation of entry into force and initial regulations

Section 104(a) provides that the President (subject to consultation and layover requirements and any other applicable restriction or limitation provided in the implementing bill) may proclaim such actions, and U.S. Government officers may issue such regulations, as may be necessary to ensure that any provision of the legislation that takes effect on the date the NAFTA enters into force is appropriately implemented on, but not prior to, that date.

Section 104(b) provides that initial regulations that are necessary or appropriate to carry out the Statement of Administrative Action shall, to the maximum extent feasible, be issued within one year after the NAFTA enters into force. However, interim or initial regulations on rules of origin (reflecting the Uniform Regulations required by article 511 of the NAFTA) shall be issued no later than the date of entry into force of the NAFTA. This is intended to respond to the Committee's concerns with respect to the lengthy delay in issuing U.S. regulations to implement the rules of origin set forth in the U.S.-Canada Free Trade Agreement (CFTA) subsequent to the CFTA's entry into force on January 1, 1989.

For any implementing action that takes effect after the entry into force, initial regulations shall, to the maximum extent feasible, be issued within one year after the relevant effective date.

Section 105: United States section of the NAFTA secretariat

Article 2002 of the NAFTA provides for the establishment of a Secretariat, comprised of national sections, to assist in the implementation and administration of the NAFTA, particularly with respect to the dispute settlement panels and committees established under Chapter 19 (for disputes involving the antidumping and countervailing duty laws) and Chapter 20 (for other disputes arising under the NAFTA).

Section 105(a) of this bill authorizes the President to establish, within any U.S. Government department or agency, a U.S. Section of the Secretariat established under Chapter 20 of the NAFTA. The U.S. Section shall facilitate the operations of Chapters 19 and 20, including the work of the panels and extra-ordinary challenge committees convened pursuant to those chapters.

Section 105(b) authorizes appropriations, for each fiscal year after fiscal year 1993, to the Department of Commerce (where the U.S. Section will be established) of the lesser of such sums as may be necessary or $2,000,000, for the establishment and operations of the U.S. Section and for payment of the U.S. share of expenses of binational panels and extraordinary challenge committees convened pursuant to Chapter 19 and dispute settlement proceedings under Chapter 20. The U.S. Section may retain and use funds provided by the Canadian and Mexican Sections for payment of their share of such expenses.

Section 106: Appointments to chapter 20 panel proceedings

Section 106(a) requires USTR to consult with the Committees on Finance and Ways and Means regarding the selection and appointment of candidates to the roster of panelists eligible to serve on dispute settlement panels in proceedings under Chapter 20.

Section 106(b) provides that the United States shall, to the maximum extent practicable, encourage the selection of environmental experts as panelists in proceedings under Chapter 20 involving challenges to U.S. or State environmental laws.

Section 107: Termination or suspension of the CFTA

Section 107 amends Section 501(c) of the CFTA Act to address the relationship of the CFTA to the NAFTA. It is structured to implement the understanding reached through an exchange of letters between the Governments of the United States and Canada on January 19, 1993, stating that the United States and Canada will arrange for the suspension of the CFTA upon the NAFTA's entry into force for the two countries, and that the suspension will remain in effect for such time as the two countries remain parties to the NAFTA.

Section 107 provides that, on the date that the United States and Canada agree to suspend the CFTA's operation by reason of the NAFTA's entry into force between them, the following provisions of the CFTA Act are suspended: sections 204 (a) and (b) (concerning drawback), section 205(a) (certificates of origin enforcement), section 302 (import relief measures), section 304(f) (biennial reports), section 404 (amendments to antidumping and countervailing duty laws), section 409 (subsidies), and section 410(b) (transition provisions). These shall remain suspended until such time as the suspension itself is terminated. It is the Committee's understanding that, in cases where the CFTA Act carries out U.S. obligations under the CFTA that will continue in effect under the NAFTA, those provisions of the CFTA Act either remain in place or are amended in this implementing bill.

Section 107 provides further that an agreement by the United States and Canada to suspend the CFTA shall not be deemed to cause the CFTA to cease to be in force. If, however, the CFTA does cease to be in force, all of the CFTA Act's provisions, with the exception of sections 410(b) and 501(c), shall cease to have effect.

Section 108: Congressional intent regarding future accessions

Section 108(a) provides that Congressional approval of the NAFTA may not be construed as conferring approval of its entry into force with respect to countries other than Canada and Mexico. This states the Committee's understanding that the Congress would review, and either approve or reject, proposals for accession by any other country to the NAFTA. Such a procedure is consistent with the language of Article 2204 of the NAFTA that any future accession shall be subject to approval in accordance with the applicable legal procedures of each NAFTA country.

Section 108(b) establishes a process for consideration of future free trade negotiations, based on findings by the Congress concerning the importance of trade agreements that provide greater market access for U.S. exports of goods and services and opportunities for export-related investment by U.S. persons. By May 1, 1994 and again by May 1, 1997, USTR shall submit to the President and the Committees on Finance and Ways and Means a report listing those countries that either (1) currently provide fair and equitable market access to U.S. exports, or (2) have made significant progress in opening their markets to U.S. exports, and the further opening of whose markets has the greatest potential to increase U.S. exports. On the basis of these reports, the President, by July 1, 1994 and July 1, 1997, is required to report to the Committees on Finance and Ways and Means regarding the countries with which the United States should seek to negotiate free trade agreements, and the objectives for such negotiations.

Section 108(b) also sets out several general U.S. objectives with respect to any such negotiations, including obtaining preferential treatment for U.S. goods, national treatment (and, where appropriate, equivalent competitive opportunity) for U.S. services and foreign direct investment by U.S. persons, the elimination of various foreign trade barriers to U.S. goods and services, adequate and effective protection of intellectual property rights for U.S. persons, the elimination of all export taxes (in particular, differential export taxes that disadvantage U.S. producers), and effective dispute settlement mechanisms to facilitate compliance with all of the listed objectives.

Section 109: Effective dates; effect of termination of NAFTA status

Section 109 provides that, with the exception of section 107, Title I takes effect on the date of enactment of the implementing bill. Section 107 takes effect on the date that the NAFTA enters into force between the United States and Canada. Sections 101 through 106 shall cease to have effect with respect to a country during any period in which that country ceases to be a party to the NAFTA.

TITLE II—CUSTOMS PROVISIONS

Section 201: Tariff modifications

Article 302 of the NAFTA is the cornerstone of the agreement between the three countries. It calls for the progressive elimination of tariffs according to the staging categories set forth in Annex 302.2 and in each Party's schedule to Annex 302.2. There are four basic staging categories: (1) immediate elimination of tariffs (category A); (2) five-year phase-out in equal, annual cuts of 20 percent (category B); (3) 10-year phase-out in equal annual cuts of 10 percent (category C); and (4) in the case of the most import-

sensitive products, 15-year phase-out in equal, annual cuts of 6.67 percent per year (category C+). Goods that currently receive duty-free treatment will continue to receive duty-free treatment (category D).

Section 201 implements Article 302. Subsection (a) authorizes the President to proclaim such modifications or continuation of any duty, continuation of duty-free or excise treatment, or such additional duties as he determines to be necessary or appropriate to implement the NAFTA articles and annexes providing for the phase-out of tariffs.

Subsection (a) further requires the President to terminate Mexico as a beneficiary under the Generalized System of Preferences (GSP) program on the date the NAFTA enters into force between the United States and Mexico. The Committee believes that termination of Mexico's status as a GSP beneficiary is necessary to achieve the goals of the NAFTA, and the maximum possible benefits for the United States. The rules of origin under GSP are generally less stringent than the NAFTA rules of origin. The Committee believes that permitting Mexico to continue to receive GSP benefits would, therefore, undermine the NAFTA.

Section 201(b) authorizes the President, subject to consultation and layover requirements, to proclaim tariff modifications, including the accelerated phase-out of tariffs, that the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada or Mexico. Subsection (b)(2) provides, however, that for articles with a tariff phaseout period of more than 10 years, the President may not consider a new request to accelerate the staging of duty reductions if a request for acceleration has been denied with respect to that article in the preceding three years. The Committee believes that this restriction is necessary for the import-sensitive products subject to these gradual phaseout periods in order to prevent petitioners from filing annual requests for acceleration, even in the absence of changed circumstances, that would require the domestic industry to devote often-limited resources to oppose the acceleration request. The Committee believes that this three-year rule will still afford parties interested in seeking acceleration an ample opportunity to do so, without unduly burdening the domestic industry.

With respect to all requests for accelerated tariff reductions, it is the Committee's intent that USTR continue to use the same administrative procedures in considering such requests under the NAFTA as have been used under the CFTA, with respect to denying such requests when they are opposed by the domestic industry. It is the Committee's intention to use the consultation and layover period to screen for a second time any potentially controversial acceleration proposals.

At the same time, the Committee recognizes that the provisions for accelerated tariff reduction can have a beneficial effect. To that end, the Committee urges the Administration, beginning as soon as possible after the NAFTA's entry into force, to press Mexico for accelerated removal of tariffs on a number of U.S. products, particularly those for which reciprocal tariff concessions were not obtained from Mexico during the course of the NAFTA negotiations. In particular, the Committee urges USTR to request immediate consultations with Mexico to seek accelerated reductions of the tariffs on household appliances, flat glass, bedding components, and wine and brandy. This is consistent with the November 3, 1993 exchange of letters between USTR Kantor and Mexican Secretary of Commerce and Industrial Development Serra Puche, which provide that the two countries will begin the first round of tariff acceleration negotiations in January 1994, immediately after the NAFTA's entry into force, with the intention of completing them in 120 days or less. The Committee expects to consult closely with USTR concerning the outcome of those acceleration negotiations, and requests that USTR issue a report to the Committee within 30-45 days of their conclusion.

Section 201(c) authorizes the President to substitute for the base rate of certain textile and apparel articles covered by Annex 300-B an *ad valorem* rate equivalent to the base rate. The flexibility that this subsection provides is intended to implement an agreement between the United States and Mexico that the Committee understands has the full support of U.S. industry. (The base rates for customs duties, which are, in general, the rates of duty in effect on July 1, 1991, are set forth in each Party's Schedule to Annex 302.2.)

Section 202: Rules of origin

Section 202 enacts into law the general rules of origin set forth in Chapter 4 of the NAFTA, and authorizes the President to proclaim the product-specific rules of origin set forth in Annex 401. These rules are essential to ensure that the benefits of the NAFTA accrue primarily to North American producers, and the Committee intends that the Customs Service vigorously enforce them.

Subsections (a) through (l) and (p) enact NAFTA Articles 401 through 413, and NAFTA Article 415, into law. Subsection (a) sets forth the requirements that goods must meet to be considered "originating" goods and therefore eligible for preferential tariff treatment under the NAFTA. In general, a good may be considered an originating good if it falls into one of the following categories: (1) the good is wholly obtained or produced in the territory of one or more of the NAFTA Parties; (2) each of the non-originating materials used in the production of the good undergoes a change in tariff classification as a result of production that occurs entirely within one or more of the Parties or the good otherwise satisfies the origin requirements; (3) the good is produced entirely in one or more of the Parties exclusively from NAFTA-origin materials; or (4) in certain circumstances, the good is produced entirely in one or more of the NAFTA Parties but one or more of the non-originating materials that are provided for as parts under the Harmonized Tariff Schedule (HTS) and used in the production of the good does not undergo a change in tariff classification, but only if the regional value content of the good (labor performed and parts produced within NAFTA countries) meets certain thresholds (at least 60 percent of the value of the goods or 50 percent of their net cost).

Subsection (a) further provides, however, that NAFTA origin (and therefore NAFTA tariff benefits) may *not* be conferred on goods produced in foreign trade zones (FTZs) or subzones even if non-originating materials undergo an applicable change in tariff classification. This provision ensures that current law will continue to apply to goods produced in FTZs or subzones, *i.e.*, that full duties are owed on the value of foreign materials or components used in goods produced in FTZs or subzones when such goods are entered for consumption in the United States.

Subsection (b) enacts into law Article 402 of the NAFTA, which sets forth the formulas for calculating regional value content on the basis of the two methodologies approved by the NAFTA—the transaction value method and the net cost method. Using the transaction value method, as provided in subsection (b)(2), the regional value content is calculated by taking the difference between the transaction value of the good (adjusted to an f.o.b. (free on board) basis) and the value of non-originating materials used in the production of the good and dividing by the transaction value of the good. Under the net cost method, as described in subsection (b)(3), the regional value content is calculated by dividing the difference between the net cost of the good and the value of non-originating materials used in the production of the good by the net cost of the good.

Section 202(b)(4), as mandated by paragraph 4 of Article 402, provides that, except for certain motor vehicles and parts, the value of any non-originating materials used to produce originating materials subsequently used in the production of a good is excluded from the calculation of the regional value content.

Paragraph 5 of Article 402 requires that the net cost method be used to calculate regional value content in certain circumstances. As set forth in section 202(b)(5) of this bill, the net cost method must be used where there is no transaction value for the good or the transaction value is unacceptable under the Customs Valuation Code; the good is sold by a producer to a related person under specific circumstances; or the goods involved are certain motor vehicles, automotive components, footwear, or word processing machines. The net cost method must also be used if the exporter or producer chooses to accumulate the regional value content of the good or the good is designated as an intermediate material (as provided in paragraph 10 of Article 402) and is subject to a regional value content requirement.

Section 202(b)(6) allows an exporter or producer who has calculated regional value content based on transaction value to recalculate regional content using the net cost method if the exporter or producer is notified, during the course of a verification, that the transaction value or the value of any material used in the production of the good must be adjusted or is unacceptable. This provision implements paragraph 6 of Article 402. Subsection (b)(7), as required by paragraph 7 of Article 402, is intended to clarify that this provision is not to be construed to prevent any review or appeal available under NAFTA Article 510 with respect to an adjustment to, or a rejection of, the transaction value of the good or the value of any material used in the production of a good.

As provided in paragraph 8 of Article 402, section 202(b)(8) sets forth three methods for allocating costs when using the net cost method to calculate regional value content. This subsection allows producers to allocate costs by: (1) calculating total costs, subtracting non-allowable costs, and reasonably allocating the resulting net cost to the goods; (2) calculating total costs, reasonably allocating the total cost to the good and then subtracting non-allowable costs; or (3) reasonably allocating each allowable cost that forms part of the total cost so that the aggregate of the costs does not include any non-allowable costs.

Subsection (b)(9), implementing paragraph 9 of Article 402, establishes a hierarchy of methods for determining the value of materials. Value will generally be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Code. If the transaction value is unacceptable under that provision, the value should

be determined in accordance with Articles 2 through 7 of the Code. Otherwise, value is to include certain specified costs set forth in the NAFTA and in subsection (b)(9).

With certain exceptions related to automotive goods, subsection (b)(10) allows a producer to designate, subject to certain restrictions, a self-produced material used in the production of a good as an intermediate material for purposes of calculating regional value content. Once it is determined that the intermediate material meets the applicable rule of origin, all costs in the production of the intermediate material are treated as originating costs. Sections 202(b) (11) and (12) provide rules for calculating the value of an intermediate material and an indirect material, respectively.

Section 202(c) implements Article 403, which sets forth special rules of origin for motor vehicles. The Committee understands that these rules were developed by the NAFTA negotiators in response to problems that have arisen in applying the rules of origin under the CFTA to motor vehicles. Subsection (c)(1) provides that, for passenger vehicles and light trucks and their automotive parts, the value of non-originating materials must be traced back through the production process when calculating regional value content. The tracing requirements under this subsection provide that the value of non-originating materials used in the production of the good is the sum of the values of all non-originating materials at the time such materials are received by the first person in the territory of a NAFTA country who takes title to them, that are imported from outside the NAFTA countries under the HTS provisions listed in Annex 403.1 and that are used in the production of the good or in any materials used in the production of the good.

Subsection (c)(2) sets forth less extensive tracing requirements for other vehicles and their parts. For these goods, the value of non-originating materials used by the producer is the sum of: (1) for each material listed in Annex 403.2, either the value of the material that is non-originating or the value of non-originating materials used in the production of such material, and (2) the value of any other non-originating materials used by the producer.

Section 202(c)(3) permits an auto producer to average its calculation of the regional value content of a motor vehicle over its fiscal year using any of the following categories: (1) over the same model line of motor vehicles in a single class produced in the same plant in a NAFTA country; (2) over the same class of motor vehicles produced in the same plant in a NAFTA country; or (3) over the same model line produced in the territory of a NAFTA country. Averaging may be done on the basis of either all motor vehicles in the category or only those vehicles exported to NAFTA countries. In addition, if certain conditions are met, vehicles produced by CAMI Automotive, Inc., in Canada may be averaged with vehicles produced by General Motors of Canada.

Subsection (c)(4) permits a producer to average the regional value content calculation of the automotive components listed in Annexes 403.1 or 403.2 over the fiscal year of the motor vehicle producer to whom the good is sold; over any quarter or month; or, if the good is sold as an aftermarket part, over its fiscal year. Producers may also calculate the average separately for goods sold to one or more motor vehicle producers or goods exported to a NAFTA country.

NAFTA Article 403 provides a stringent regional value content requirement for motor vehicles; the requirement is enacted into law in subsection (c)(5) of this bill. For passenger motor vehicles, light trucks, and their engines and transmissions, the regional value content is increased in stages from 50 percent for the first four years of NAFTA to 56 percent for the second four years to 62.5 percent thereafter. Other motor vehicles and other automotive parts are subject to a 50 percent regional content requirement for the first four years, 55 percent for the second four years, and 60 percent thereafter. Under section 202(c)(6), the required regional value content is temporarily reduced to 50 percent for a five-year period for investors establishing new plants to produce vehicles not previously made by that producer in the region and for a two-year period following refit of an existing plant to produce a new vehicle.

As a transitional measure, subsection (c)(7) provides that, for certain motor vehicles exported from Canada on or after January 1, 1989, and before date of entry into force of the NAFTA, the importer may elect to use the NAFTA rules of origin in lieu of the CFTA rules of origin and may elect to use either of the methods provided in the NAFTA for tracing the value of non-originating materials in automotive products for purposes of determining eligibility for preferential treatment under the CFTA. Election must be made within 180 days after NAFTA's entry into force and may be made only if the liquidation of an entry has not become final. This subsection implements a U.S. commitment contained in a December 15, 1992 letter from former Deputy USTR Katz to former Canadian Deputy Minister of International Trade Campbell.

Section 202(d), which implements NAFTA Article 404, clarifies that where more than one producer is involved in the production of a good, either in one NAFTA country or more than one NAFTA country, the producers may accumulate their regional processing in determining whether a good meets a required tariff classification change or regional value content requirement.

Unlike the CFTA, NAFTA Article 405 provides a *de minimis* rule for origin determinations. Subsection (e) provides that, with certain exceptions, goods may qualify as originating goods even if a small portion of the material (generally less than seven percent of the value or total cost of the good) fails to undergo an otherwise required change in tariff classification. For goods subject to a regional value content requirement, the calculation of that content is waived if the value of all non-originating materials is less than seven percent of the value or total cost of the good. The *de minimis* rule does not apply to certain agricultural products, home appliances, printed circuit assemblies, and other specified articles.

Subsection (f) implements Article 406. Under this provision, if originating and non-originating fungible materials are used in the production of a good or are commingled and exported in the same form, the origin determination may be made on the basis of any of the inventory management methods set out in the Uniform Regulations implementing the NAFTA rules of origin. (NAFTA Article 511 requires the Parties to establish and implement by January 1, 1994 Uniform Regulations regarding the interpretation and implementation of NAFTA Chapter 4 (Rules of Origin) and Chapter 5 (Customs Procedures)).

Section 202(g), implementing NAFTA Article 407, provides that accessories, spare parts or tools delivered with an originating good shall themselves be considered to be originating goods and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification. These provisions apply only if the accessories, spare parts or tools are not invoiced separately from the good and the quantities and values are customary for the good. For goods subject to a regional value content requirement, the value of any accessories, spare parts or tools must be taken into account in calculating the regional value content.

Subsection (h), which implements Article 408, clarifies that indirect materials (generally, goods used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance or operation of buildings or equipment) are originating materials without regard to where they are produced.

Section 202(i) provides that, in determining whether all the non-originating materials used in the production of a good undergo the applicable change in tariff classification, packaging materials and containers associated with the retail sale are to be disregarded if they are classified with the good. However, if the good is subject to a regional value content rule, the value of the retail packaging materials is to be taken into account in calculating the regional value content. This subsection implements Article 409.

With respect to packing materials and containers in which a good is packed for shipment, subsection (j) provides that these are to be disregarded in determining whether the materials used in production meet the applicable change in tariff classification requirement or the regional value content requirement.

Subsection (k) prohibits the extension of NAFTA tariff preferences to goods shipped outside the territories of the NAFTA Parties for further processing. This subsection implements Article 411 of the NAFTA, which denies originating good status to such transshipped goods.

Subsection (l) implements Article 412 by providing that goods shall not be considered to be originating goods merely because they have been diluted with water or another substance or by reason of a production or pricing practice the object of which is to circumvent the NAFTA rules of origin.

Subsection (m) implements Article 413, which provides general rules for interpreting and applying the NAFTA rules of origin. These rules establish the Harmonized System as the basis for tariff classification under the NAFTA. Subsection (m) also provides rules for determining whether a heading or subheading provides for and specifically describes a good and its parts, as well as rules for applying the Customs Valuation Code.

Section 202(n) implements NAFTA Article 308 and Annex 308.1. These provisions phase in, over 10 years, a common external tariff for certain automatic data processing goods and their parts. As provided in paragraph 2 of Annex 308.1, when the MFN rate of duty applicable to these goods reaches the agreed level, these products will be deemed to be originating goods notwithstanding the rules of origin set forth in Chapter 4. Subsection (n) provides that, by operation of law, when the NAFTA Parties apply the agreed MFN rate to these products, they will be deemed to originate in a NAFTA country.

Under paragraphs 10 and 11 of Annex 703.2, the United States and Mexico may treat certain agricultural products (peanuts, peanut products, and sugar-containing products) as non-originating goods even if they meet the

rules of origin set forth in Chapter 4. Section 202(o) implements these paragraphs. Under these provisions, the rules of origin applicable to these products will be stricter than the otherwise applicable rules. In order to qualify for NAFTA benefits, peanuts exported to the United States from Mexico must be harvested in Mexico, peanut butter and other peanut products must be made from peanuts harvested in Mexico, and the sugar used in sugar-containing products must have been harvested in Mexico.

Subsection (p) enacts as statutory provisions all of the definitions set forth in Article 415 of the NAFTA.

Subsection (q) provides the authority for the President to proclaim the specific rules of origin set forth in Annexes 401, 403.1, 403.2, and 403.3, as well as in Appendix 6.A of Annex 300-B. This subsection also authorizes the President, subject to consultation and layover requirements, to proclaim changes to the specific rules of origin for all products except textile and apparel products. For textile and apparel products, the President may proclaim, subject to consultation and layover requirements, changes to the rules only under two circumstances: (1) to implement such changes as agreed to by the Parties pursuant to Annex 300-B relating to agreements to modify the rules to address issues of availability of supply; or (2) to make purely technical corrections within one year after date of enactment of this Act. The Committee believes that these restrictions on the President's ability to modify the textile rules of origin are necessary to ensure that any proposals to make significant changes to these rules are scrutinized by the Congress. Finally, subsection (q) also authorizes the President to proclaim, subject to consultation and layover requirements, changes to the definitions set forth in Article 415 of the NAFTA, but only within one year after enactment of this Act.

Section 203: Drawback

Under current law, U.S. duty drawback programs provide for the refund of up to 99 percent of the duties paid on imported goods when such goods, or substituted domestic goods, are exported or incorporated in articles that are subsequently exported. Section 204 of the CFTA Act prohibits duty drawback on goods traded between the United States and Canada as of January 1, 1994, subject to limited exceptions. The NAFTA makes significant changes to the drawback rules that will apply to trade among the NAFTA countries.

NAFTA Article 303 strictly limits duty drawback on trade between the United States and Canada as of January 1, 1996, and on trade between the United States and Mexico as of January 1, 2001, with certain exceptions. For dutiable goods traded between the Parties, drawback will be limited to an amount that is the lesser of (1) the total amount of customs duties paid or owed on the non-NAFTA components initially imported; and (2) the total amount of customs duties paid to another Party on the good subsequently exported (hereafter called "NAFTA drawback formula). FTZs, maquiladoras, and other in-bond operations will be charged duty for non-NAFTA components used in goods that are sold to other NAFTA parties just as if the goods were sold into their domestic markets.

Section 203(a) defines the goods that are subject to the NAFTA drawback rules. In sum, all goods traded among the NAFTA countries are subject to the NAFTA drawback restrictions except for the goods identified in this subsection. The exceptions track those found in paragraph 6 of Article 303.

Section 203(b) amends the relevant provisions of the Tariff Act of 1930 and the Foreign Trade Zones Act (FTZ Act) to bring these statutes into conformity with the NAFTA drawback provisions. With regard to "manufacturing" drawback, section 203(b) amends section 311 of the Tariff Act of 1930 to provide that articles manufactured in a bonded warehouse from goods that are subject to NAFTA drawback are subject to duty upon withdrawal from the warehouse. Such duties must be paid within 60 days of exportation, except that duties may be waived, or reduced in an amount that does not exceed the amount stipulated in the NAFTA drawback formula. Subsection (b) also amends section 312 of the Tariff Act of 1930 to provide that duties must be paid, within 60 days of exportation to a NAFTA country, on metal-bearing materials that are refined or smelted in a bonded warehouse, except that such duties may be waived or reduced in an amount that does not exceed the amount provided for in the NAFTA drawback formula.

With respect to "substitution" drawback, subsection (b) amends section 313 of the Tariff Act of 1930 to provide generally that, for goods subject to NAFTA drawback, no customs duties may be refunded, waived or reduced in an amount that exceeds that provided for in the NAFTA drawback formula.

This subsection also amends section 562 of the Tariff Act of 1930, regarding "same condition" drawback, to provide that the NAFTA drawback formula applies to goods cleaned, sorted, or packed in bonded warehouses.

Section 203(b) also amends section 3(a) of the FTZ Act to bring that law into compliance with Article 303 of the NAFTA. Duties will be collected within 60 days of exportation to Canada or Mexico to the same extent as if the product were entered for domestic consumption, except that duties may be waived or reduced in an amount that does not exceed the amount provided for under the NAFTA drawback formula.

The amendments made to sections 311, 312, 313, and 562 of the Tariff Act of 1930 and to the FTZ Act apply on and after January 1, 1996 with respect to exports to Canada and on and after January 1, 2001 with respect to exports to Mexico.

Section 203(c) amends section 313(j) of the Tariff Act of 1930 to provide that, effective immediately, drawback may not be paid on exports to a NAFTA country of merchandise that is fungible with and substituted for imported merchandise. This subsection implements paragraph 2(d) of Article 303, which eliminates "same condition substitution" drawback on trade among the NAFTA Parties.

Consistent with paragraph 2(c) of Article 303, section 203(d) prohibits the Secretary of the Treasury from refunding or reducing a fee applied pursuant to section 22 of the Agricultural Adjustment Act for goods subject to NAFTA drawback. This restriction applies to any such goods exported to Canada after December 31, 1995 and any such goods exported to Mexico after December 31, 2000.

Subsection (e) clarifies that nothing in section 203 or the amendments made by section 203 authorizes the refund, waiver or reduction of countervailing or antidumping duties imposed on goods imported into the United States. This subsection implements paragraph 2(a) of Article 303. Current U.S. law does not, in any event, permit drawback of antidumping or countervailing duties.

The limitations on duty drawback are designed to promote the NAFTA's goal of creating an integrated market for North American products. The changes to the duty drawback regimes of the NAFTA countries will ensure that MFN tariffs will be assessed by all NAFTA countries on non-NAFTA components for final goods manufactured in their territories, whether those goods are ultimately sold in a NAFTA country's domestic market or sold in the markets of the other NAFTA countries. The requirement that duties must be paid on non-NAFTA components will create an incentive to use North American inputs and will help guard against the establishment of export platforms in Mexico by companies seeking to take advantage of NAFTA tariff preferences. At the same time, the NAFTA duty drawback formula eliminates double taxation on non-NAFTA inputs; tariffs will be collected only once for non-NAFTA inputs used in goods traded among the NAFTA Parties. This will help ensure that North American producers whose goods are not eligible for NAFTA tariff preferences (because they do not meet the NAFTA rules of origin) will not be disadvantaged when they compete with non-North American producers in the U.S. market.

Section 204: Customs user fees

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) authorizes the Customs Service to collect certain user fees, including a merchandise processing fee, through September 30, 1998. NAFTA Article 310 requires the United States to phase out its merchandise processing fee with respect to Canadian originating goods according to the schedule set forth in CFTA Article 403, which requires the United States to eliminate the fee on goods originating in Canada by January 1, 1994. Article 310 also requires the United States and Mexico to eliminate their merchandise processing fees on originating goods by June 30, 1999.

To implement these provisions, section 204 amends the COBRA to provide that, effective January 1, 1994, the merchandise processing fee may not be imposed on Canadian goods that qualify under the rules of origin. It also provides that the fee may not be increased after December 31, 1993 with respect to Mexican goods that qualify under the rules of origin and may not be imposed on qualifying Mexican goods after June 29, 1999. In order to ensure that these provisions are consistent with GATT obligations, this subsection also prohibits the Secretary of the Treasury from using funds in the Customs User Fee Account to cover the costs of customs services provided in connection with imports from Canada or Mexico. This will ensure that amounts in that account will cover only the costs of processing imports from non-NAFTA countries which are not exempt from the merchandise processing fee.

Section 205: Enforcement

This section is intended to provide the Customs Service with the tools necessary to enforce the rules of origin and deter fraudulent claims. It implements Articles 501 and 502, which require Certificates of Origin for goods for which preferential tariff treatment under the NAFTA is claimed, Article 504, which requires penalties for false certifications, Article 505, which imposes recordkeeping requirements, and Article 508, which requires each Party to provide for penalties for violations of the laws and regulations relating to NAFTA Chapter 5.

Articles 501 and 505 of the NAFTA require the completion and maintenance of certain records, including Certificates of Origin, relating to claims for preferential tariff treatment under the NAFTA. Section 205(a)

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amends section 508 of the Tariff Act of 1930 to require U.S. exporters and producers who execute NAFTA Certificates of Origin to maintain records relating to those certifications for at least five years from the date a Certificate of Origin is signed. Under this subsection, a person who fails to comply with these recordkeeping requirements is subject to a penalty of $10,000 or the general recordkeeping penalty under the customs laws, whichever is higher.

Subsection (a) also includes a provision to assist the Customs Service in enforcing the NAFTA drawback provisions established under Article 303 and section 203 of this Act. Any person claiming drawback on an article must disclose to Customs, within 30 days of making a drawback claim, whether that person has prepared or has knowledge that another person has prepared a NAFTA Certificate of Origin for the article. If the drawback claimant subsequently prepares or learns that another person has prepared a Certificate of Origin for that article, the claimant must inform the Customs Service. This provision is necessary to ensure that a drawback claimant does not receive a greater refund or waiver than the claimant is entitled to under the NAFTA drawback formula. The potential for excess refunds or waivers exists because paragraph 3 of NAFTA Article 502 (as implemented by section 206 of this Act) provides that importers may file claims for preferential tariff treatment under the NAFTA within one year after a good is imported. Thus, at the time a drawback claim is filed, the drawback claimant may not have prepared a Certificate of Origin with respect to that good, or may not know that a Certificate has been prepared. If the good with respect to which a drawback claim has been filed is subsequently determined to qualify for NAFTA preferential tariff treatment in the importing country, the amount of drawback the claimant is eligible to receive may be reduced by operation of the NAFTA drawback formula. Accordingly, this subsection also authorizes the Customs Service to make adjustments regarding the previous customs treatment of the article, if necessary.

Section 205(b) amends section 509 of the Tariff Act of 1930 to authorize the Customs Service to summon persons who export merchandise to a NAFTA country. This provision is necessary to assist in enforcing the NAFTA rules of origin and customs provisions.

Subsection (c) implements Articles 502 and 504. Under section 592 of the Tariff Act of 1930, importers who make false declarations of NAFTA origin are subject to penalties for fraud, gross negligence, or negligence, as appropriate. Subsection (c) implements paragraph 2(b) of Article 502, which provides that importers shall not be subject to penalties for incorrect claims if they have reason to believe that the Certificate of Origin on which the claim is based contains incorrect information and voluntarily and promptly make corrected declarations and pay any duties they may owe.

Subsection (c) also implements Article 504 by subjecting persons who make false certifications in NAFTA Certificates of Origin to the penalties for fraud, gross negligence, and negligence, as appropriate, as established under section 592 of the Tariff Act of 1930. This subsection also provides, as required in paragraph 3 of Article 504, that a person may not be subject to penalties under these provisions if the information was correct at the time it was provided in a NAFTA Certificate of Origin but was later rendered incorrect due to changed circumstances and the person voluntarily and promptly provides written notice of the change to all persons to whom the certificate was provided.

Section 206: Reliquidation of Entries for NAFTA-origin Goods

Article 502 permits importers who did not claim preferential tariff treatment under the NAFTA at the time the good was imported to apply for a refund of excess duties paid if the good would have qualified as an originating good at the time of importation and the importer applies for a refund within one year of importation. Section 206 implements this provision by authorizing the Customs Service to reliquidate an entry and grant NAFTA tariff treatment to the entry if the importer, within one year of the date of importation, files a claim and provides such documents as may be required.

Section 207: Country of Origin Marking of NAFTA Goods

Section 207 implements both Article 311 (regarding country of origin marking requirements) and Article 510 (providing Mexican and Canadian exporters and producers a right to appeal marking determinations). Both obligations are implemented through amendments to section 304 of the Tariff Act of 1930.

Article 311 and Annex 311 require the NAFTA Parties to "accept any reasonable method of marking a good . . . including the use of stickers, labels, tags or paint, that ensures that the marking is conspicuous, legible, and conspicuously permanent." In order to comply with this obligation, section 207(a) authorizes, for NAFTA-origin goods, certain additional exemptions from the marking requirements of section 304 of the Tariff Act of 1930: (1) where the buyer reasonably knows (instead of "necessarily knows" as under current law), by reason of the character of the goods or the circumstances of their importation, that they are NAFTA-origin goods; (2) for original works of art; and (3) for ceramic bricks, semiconductor devices, and integrated circuits. Subsection (a) also provides that the special provisions regarding the marking of containers do not apply with respect to certain identified goods.

In accordance with Annex 311, section 207(a) also amends section 304 of the Tariff Act of 1930 to provide that certain pipes and fittings may be marked by means of continuous paint stenciling in addition to the methods provided in section 304(c)(1) and that certain manhole rings or frames may be marked with "an equally permanent method of marking" in addition to the methods currently provided in section 304(e). Conforming changes are also made to section 304(c)(2) of that Act. The Committee believes that, with respect to iron or steel pipes and tubes, continuous paint stenciling will best accomplish the requirements of section 304 of the Tariff Act of 1930 that goods be marked as legibly, indelibly and permanently as the article permits. The Committee believes that this requirement is fully consistent with NAFTA Annex 311. The Committee notes that continuous paint stenciling of technical information on the outside of the pipe is generally required by the ASTM and the API specifications that govern the production of the majority of these products. It is the Committee's belief that the additional continuous paint stenciling of the country of origin will not burden foreign producers and will contribute to the ability of the ultimate purchaser to know the origin of the product purchased.

Section 207(a) also implements Article 510, which gives Mexican and Canadian exporters and producers substantially the same rights of appeal under U.S. law as those available to importers for marking determinations. This subsection amends section 304 of the Tariff Act of 1930 to provide that, upon request, Customs will provide to an exporter or producer the basis for an adverse marking determination. If the importer of the merchandise protests the determination, the exporter or producer may intervene in the protest. In such cases, the rights of the exporter or producer are subordinate to the rights of the importer. If, however, the importer does not protest the determination, the exporter or producer may petition the Customs Service for review. If the determination upon review is contrary to the initial determination, the determination will become effective 30 days after notice is published in the FEDERAL REGISTER.

Section 207(b) provides that NAFTA-origin goods are exempt from the marking requirements of section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988, in compliance with NAFTA Annex 311. However, such goods remain subject to the marking requirements of section 304 of the Tariff Act of 1930. The Administration, in the Statement of Administration Action accompanying the NAFTA, has stated its commitment to work with the Governments of Mexico and Canada to protect authentic products of Native Americans and to enforce strictly the marking requirements of section 304.

Section 208: Protests Against Adverse Origin Determinations

NAFTA Article 510 provides that Mexican and Canadian exporters and producers who have signed a NAFTA Certificate of Origin shall have substantially the same rights of appeal for NAFTA origin determinations as those available under U.S. law to importers. Section 208 implements this obligation by amending section 514 of the Tariff Act of 1930. The amendment also provides for consolidation of such protests. Section 508 further provides that, except where there are indications of a pattern of false or unsupported representations, an exporter or producer must be provided advance notice of an adverse origin determination.

In addition, section 208 implements paragraph 10 of Article 506 by amending section 514 of the Tariff Act of 1930 to permit the Customs Service, if it finds indications of a pattern of conduct by an exporter or producer of false or unsupported representations that goods qualify under the NAFTA rules of origin, to deny preferential treatment to entries of identical goods from that exporter or producer.

Section 209: Exchange of Information

Article 512 requires the NAFTA Parties to cooperate in the enforcement of their respective customs laws and regulations implementing the NAFTA, in the enforcement of prohibitions or quantitative restrictions to detect and prevent unlawful transshipments of textiles and apparel, and in the exchange of statistics and storage and transmission of customs-related documentation. Section 209 amends section 628 of the Tariff Act of 1930 (which permits the Secretary of the Treasury to authorize Customs Service officials to exchange certain information or documents with foreign customs or law enforcement officials) to authorize exchanges of information with other NAFTA countries if the Secretary believes such exchanges are necessary to implement Chapters 3, 4, and 5 of the NAFTA. The NAFTA country must, however, provide assurances that it will maintain the confidentiality of the information.

Section 210: Prohibition of Drawback for Television Picture Tubes

Paragraph 8 of Article 303 prohibits duty drawback on 14-inch or larger color picture tubes manufactured in a NAFTA country for use in standard or high definition televisions exported to another NAFTA country. Section 210 implements this prohibition, which is effective upon entry into force of the NAFTA.

Section 211: Monitoring of Television and Picture Tube Imports

Section 211 requires the Customs Service to monitor, for five years, imports of color televisions from NAFTA countries and to exercise all U.S. rights under Chapter 5, including conducting verifications, to ensure full compliance with the rules of origin and full implementation of the NAFTA duty drawback obligations so that Customs can make correct duty assessments. This section requires Customs to make the results of its monitoring and verification available to the President and to USTR. If, based on such information, the President has reason to believe that color picture tubes intended for ultimate consumption in the United States are entering another NAFTA country in a manner inconsistent with the provisions of the NAFTA, or that such tubes have been undervalued in a manner that may raise concerns under U.S. trade laws, the President shall promptly take such actions as are appropriate under relevant provisions of the NAFTA and applicable U.S. trade statutes.

The Committee has received a letter, dated November 17, 1993, from USTR Kantor regarding the interpretation and implementation of section 211. In that letter, Ambassador Kantor noted that the Statement of Administrative Action accompanying the NAFTA failed to provide a full statement of the Administration's intentions with respect to section 211 and that he was writing the Committee at the President's request to clarify the record and make the Committee aware of the clarification. The three paragraphs that follow, which were transmitted to the Administration as the joint recommendation of the Committees on Finance and Ways and Means with respect to section 211, represent the intentions of the Administration, as well as the intentions of the Committees, regarding the implementation of this section.

For five years from date of enactment of this Act, the Customs Service will monitor the volume of imports into the United States from other NAFTA countries under subheading 8528.10 (14" or larger color televisions) to verify compliance of such imports with the rules of origin in Annex 401 and to ensure full implementation of duty drawback commitments in Article 303 and Annex 303.8 by other NAFTA countries. If necessary to verify compliance and ensure full implementation, the United States will promptly invoke all U.S. rights under the NAFTA, including Articles 512 and 513.

In addition, the Customs Service will monitor, for five years, the value for duty assessment purposes of materials imported into other NAFTA countries under subheading 8540.11 (14" or larger color picture tubes) for incorporation into products imported into the United States under subheading 8528.10. If, based on such monitoring and on additional information supplied by the domestic industry, the Customs Service has reason to believe that such materials have been improperly valued at the time of importation into the territory of another NAFTA country, the United States will promptly invoke all U.S. rights under the NAFTA, including Articles 512 and 513, to achieve proper duty assessment.

To implement this section, the Customs Service will report the data collected under section 211(a) to USTR on a monthly basis for five years. If, during this period, the President has reason to believe, based on these data and upon any additional information supplied by the domestic industry, that material classified under subheading 8540.11 intended for ultimate consumption in the United States is entering the territory of a NAFTA country in a manner that is inconsistent with the provisions of the NAFTA, including those identified in section 211(a) of the implementing bill, or has been undervalued in a manner that may raise concerns under U.S. trade laws, the President will promptly take such actions as are appropriate under the authority of all relevant provisions in the NAFTA, including Article 317 and Chapter 20, and under applicable U.S. trade statutes.

These monitoring requirements are necessitated by the Committee's concern that U.S. antidumping orders continue to be circumvented. It is the Committee's expectation that this provision will give the Administration the tools necessary to ensure that any circumvention that is occurring within NAFTA countries will cease.

Section 212: Title VI amendments

Section 212 provides that, where the Customs Modernization Act provisions contained in Title VI of this Act amend the same laws as Title II, the amendments in Title II are to be executed after the amendments made by Title VI. This is necessary to ensure full compatibility between the provisions of Titles II and VI.

Section 213: Effective dates

This section sets forth the effective dates for the provisions in Title II.

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

SUBTITLE A—SAFEGUARDS

Most trade agreements to which the United States is a party include a safeguard provision (also referred to as an "escape clause") to address the concerns of workers and industries that believe they may be adversely affected by trade liberalization. These provisions permit the temporary imposition of import restrictions if industries have been injured by substantial increases in imports. Safeguards are permitted under GATT Article XIX, subject to certain restrictions, and are implemented in U.S. law under sections 201 through 204 of the Trade Act of 1974. The NAFTA, similar to the CFTA, includes provisions regarding the treatment of imports from Canada and Mexico in global safeguard actions taken under the authority of section 201. Part 2 of Subtitle A enacts these provisions (found in NAFTA Article 802) into law.

In addition, the NAFTA includes a special bilateral safeguard, which permits the temporary reimposition of MFN tariffs if a U.S. industry is harmed by imports from Mexico that have increased as a result of the NAFTA. The NAFTA bilateral safeguard is modeled after the bilateral safeguard established in the CFTA, with some modifications. Sections 301 through 307, described below, implement the bilateral safeguard provisions, as set forth in NAFTA Article 801 and Annex 801, that will apply to U.S.-Mexican trade and carry forward the bilateral safeguard provisions of the CFTA, which will continue to apply to goods from Canada.

Part 1—Relief from Imports Benefiting from the Agreement

Section 301: Definitions

Section 301 defines the terms "Canadian article" and "Mexican article" for purposes of applying the bilateral safeguard provisions set forth in Chapter 8 of the NAFTA and implemented in sections 302 through 307 of this bill.

Section 302: Commencing of action for relief

Section 302(a) authorizes an entity (including a trade association, firm, union, or group of workers) that is representative of an industry to file with the ITC a petition requesting relief from imports from a NAFTA country or countries for the purpose of adjusting to the obligations of the NAFTA. Subsection (a) also provides that petitioners may request provisional relief, as provided under section 202 of the Trade Act of 1974, from surges of imports of perishable products from Mexico or Canada after the ITC monitors imports of such products for at least 90 days. Petitioners may also apply for accelerated relief (within 127 days rather than the normal 240 days) with respect to imports of non-agricultural products from Mexico or Canada if they allege critical circumstances; such an allegation must, however, be made before the 90th day after an investigation is initiated.

Under subsection (b), upon the filing of a petition, the ITC shall investigate whether, as a result of a tariff reduction or elimination provided for under the NAFTA, a Canadian article or a Mexican article is being imported into the United States in such increased quantities, in absolute terms, and under such conditions that imports of the article, alone, constitute a substantial cause of serious injury or, in the case of a Mexican article, a threat of serious injury to a domestic industry producing a like or directly competitive article. The threat standard does not apply to imports from Canada because the NAFTA incorporates the CFTA bilateral safeguards provision which does not permit a bilateral safeguard action to be taken in the case of threat of injury as a result of imports from Canada.

For the purposes of the ITC injury determination, subsection (c) makes certain provisions of section 202 of the Trade Act of 1974 applicable to determinations in bilateral safeguard actions under the NAFTA. These provisions relate to: the factors to be taken into account in determining serious injury and, where applicable, threat of serious injury; the domestic industry; the definition of substantial cause and factors to be considered in determining substantial cause; and the requirement for public hearings and opportunity for comment.

Subsection (d) provides that these bilateral safeguard provisions do not apply to textile and apparel articles, which are subject to a separate safeguard provided under Chapter 3 of the NAFTA. In addition, as required by paragraph 2(d) of Article 801, relief under the NAFTA bilateral safeguard may be provided only once during the transition period against a particular good. (The transition period is 10 years, except for goods in the longer tariff phase-out schedules, in which case the transition period corresponds to the length of the tariff phase-out.)

Section 303: ITC action on petition

Section 303(a) requires the ITC to make its injury determination, as well as its determination with respect to an allegation that critical circumstances exist, within 120 days after an investigation is initiated. If the determination is affirmative, the ITC must, as

provided under subsection (b), find and recommend to the President the amount of import relief that is necessary to remedy or, in the case of imports from Mexico, prevent the injury.

Subsection (c) requires the ITC to report to the President within 30 days after its determination, and, as required by subsection (d), make its report public (except for confidential information).

In the event that the ITC Commissioners are equally divided on the questions of injury or remedy, section 303(e) provides that the provisions of section 330(d) of the Tariff Act of 1930 will apply.

It is the Committee's intent that, for purposes of determining whether a reduction in duty has occurred (as required to trigger the bilateral safeguard under Article 801), the ITC shall consider the expansion of a quota under a tariff-rate quota as a reduction in a duty. The Committee endorses the Statement of Administrative Action's position with respect to this issue. The Committee also welcomes the Statement of Administrative Action's statement with respect to ITC review of import trends. The Committee believes that, in determining whether increased imports are a substantial cause of serious injury, or threaten serious injury, the ITC should examine trends in imports and changes in the marketplace over the most recent years. Particularly in the case of agricultural imports, where import volumes may have been affected by natural disasters, the fact that imports in a given year may be lower than in a prior year does not necessarily lead to the conclusion that imports have not been increasing. The Committee believes that bilateral safeguard action should not necessarily be precluded in such circumstances.

Section 304: Provision of relief

Section 304 includes provisions relating to the nature and duration of the relief that the President may provide. Within 30 days after receiving an affirmative determination from the ITC regarding a petition for a bilateral safeguard action, the President shall, under subsection (a), provide relief to the extent necessary to remedy or, in the case of imports from Mexico, prevent the injury. Action is not required, however, as provided in subsection (b), if the President determines that the provision of import relief will not provide greater economic and social benefits than costs.

Subsection (c) implements paragraph 1 of Article 801, which limits the types of relief that may be provided under the NAFTA bilateral safeguard. In general, relief is limited to the suspension of further duty reductions or an increase in the rate of duty to the lesser of the MFN rate of duty on the article at the time of the safeguard action or the MFN rate imposed on the date the NAFTA entered into force (for products from Mexico) or the date the CFTA entered into force (for products from Canada). For products subject to seasonal duties, the President may increase the rate of duty to a level that does not exceed the MFN rate of duty imposed on the product during the corresponding season before the NAFTA or CFTA, as applicable, entered into force.

As mandated by paragraph 2(c) of Article 801, subsection (d) provides that relief may not exceed three years except that a one-year extension is permissible for certain import-sensitive articles if certain conditions are met.

In addition, section 304(e) implements paragraph 2(e) of Article 801 which establishes the duty rates that will apply to articles from Mexico when a bilateral safeguard action terminates. Under this provision, the rate of duty that will apply for the remainder of the year after import relief is terminated will be the rate that would have been in effect one year after the bilateral safeguard action was initiated. For subsequent years, the President may impose either the rate of duty that conforms to the U.S. tariff phase-out schedule or the rate that will achieve the elimination of the tariff in equal annual stages by the date set out in the U.S. tariff phase-out schedule.

Section 305: Termination of relief authority

As is the case with respect to the CFTA bilateral safeguard, the NAFTA bilateral safeguard applies only during the transition period. Thus, section 305 provides that no import relief may be provided under the bilateral safeguard after December 31, 1998 for goods from Canada (the end of the CFTA transition period) or after the appropriate transition period under the NAFTA (10 years or, in the case of products with longer transition periods, the length of the transition period), unless Canada or Mexico consents to the application of the safeguard beyond those periods.

Section 306: Compensation authority

Paragraph 4 of Article 801 requires any NAFTA Party that takes a bilateral safeguard action to compensate the country whose goods have been affected by the action. Compensation shall take the form of concessions that have substantially equivalent trade effects or that are equivalent to the value of the additional duties expected to result from the safeguard action. Section 306 authorizes the President to provide such compensation.

Section 307: Submission of petitions

Section 307 allows a petitioner to submit petitions for bilateral and global safeguard actions separately or at the same time. If they are submitted at the same time, section 307 provides that the ITC will consider the petitions jointly.

Section 308: Special tariff provisions for Canadian fresh fruits and vegetables

Section 308 amends section 301(a) of the CFTA Act, which implements a provision of the CFTA that allows for imposition of a temporary duty (a "tariff snapback" up to the MFN rate of duty) on certain fresh fruits and vegetables if two conditions are met: (1) for each of five consecutive days, the import price of the Canadian product is below 90 percent of the corresponding five-year average monthly import price; and (2) the planted U.S. acreage for the product is no higher than the average planted acreage over the preceding five years (excluding the years with the highest and lowest acreage). Any duty imposed shall terminate by the earlier of the day following the last of five consecutive days in which the product's point of shipment price in Canada exceeds 90 percent of the corresponding five-year average monthly price, or the 180th day after the date on which the duty first took effect.

Section 308 establishes a three-step procedure for the imposition of this temporary duty. First, the the Secretary of Agriculture determines whether both of the above conditions exist and, on making such a determination, immediately submits it for publication in the *Federal Register*. Second, not later than six days after such publication, the Secretary shall decide whether to recommend to the President the imposition of a temporary duty. Third, if the Secretary makes such a recommendation, not later than seven days after receiving it the President shall decide whether to impose the temporary duty.

Section 308 provides further that the Commissioner of Customs and Director of the Census Bureau shall provide the Secretary with timely information concerning the importation of Canadian fresh fruits or vegetables, and importers shall report such information as the Commissioner of Customs requires.

This amendment, effective on the date of enactment of the implementing bill, is intended to improve the effectiveness of the tariff snapback by ensuring that relief is provided in a timely manner. This responds to concerns that application of section 301(a) of the CFTA Act may have been frustrated in the past because of administrative delays in deciding whether to recommend the granting of relief.

Section 309: Price-based snapback for frozen concentrated orange juice

Section 309 establishes a price-based tariff snapback applicable to U.S. imports of frozen concentrated orange juice from Mexico. The tariff on imports that exceed the threshold quantities—imports above 264,978,000 liters (70 million gallons) during 1994 through 2002 and 340,560,000 liters (90 million gallons) during 2003 through 2007—will "snap back" automatically, reverting to the lesser of (1) the prevailing MFN rate, or (2) the rate in effect on July 1, 1991, if the futures price for frozen concentrated orange juice in the United States falls below a historical average price for a period of five consecutive days. This temporary duty will cease to apply if the futures price then is above the historical average price for five consecutive days. The Secretary of Agriculture shall publish determinations that the tariff snapback has been triggered and removed in the *Federal Register*.

Part 2—Relief from Imports from All Countries

Sections 311 and 312 implement Article 802, which requires the President to exclude imports from Mexico and Canada from global safeguard actions unless certain conditions are met.

Section 311: NAFTA article impact in import relief cases under the Trade Act of 1974

Section 311(a) requires the ITC, at the time it makes an affirmative determination in an action initiated under section 201 of the Trade Act of 1974, to report to the President whether imports from a NAFTA country, considered individually, account for a substantial share of total imports of the article under investigation and whether such imports, considered individually or, in exceptional circumstances, considered collectively, contribute importantly to the serious injury or threat thereof.

Subsection (b) provides guidelines for determining whether imports from a NAFTA country account for a substantial share of total imports. Normally, such imports will not be considered to account for a substantial share of total imports if the country is not among the top five suppliers of the article subject to investigation during the most recent three-year period. Similarly, subsection (b) provides that the ITC normally will not consider imports from NAFTA countries to "contribute importantly" to injury or threat of injury if the growth rate of imports from such countries is appreciably lower than the growth rate of total imports from all sources over the same period. Subsection (c) defines "contribute importantly" to mean an important cause, but not necessary the most important cause; this is the same standard as is used in the CFTA.

Section 312: Presidential action regarding NAFTA imports

Section 312(a) requires the President to make essentially the same determination as the ITC as to whether imports from NAFTA countries represent a substantial share of total imports and whether they contribute importantly to the injury or threat of injury. The Committee expects that the President will take into account the determination made by the ITC with respect to these issues; however, the President is not bound by the ITC recommendation. If the President finds in the affirmative, he is required, under subsection (b), to exclude imports from NAFTA countries from any global relief imposed. However, if they are excluded and the President thereafter determines that a surge in imports from a NAFTA country is undermining the effectiveness of the relief, the President may take appropriate action to include such imports in the action.

The domestic industry on whose behalf the global action is taken may petition the ITC to investigate such an import surge. In such cases, the ITC must submit the findings of its investigation to the President within 30 days after the petition is filed. If a global safeguard action proclaiming a quantitative restriction is applied to imports of NAFTA countries, such action must, under subsection (d) and pursuant to paragraph 5 of Article 802, permit the importation of a quantity or value of the article from the relevant NAFTA country which is not less than the quantity or value of such article imported into the United States during the most recent representative period, with allowance for reasonable growth.

The Committee endorses the clarifications and commitments provided in the Statement of Administrative Action with respect to the application of bilateral and global safeguard actions to imports of certain major household appliances. The Committee intends to monitor any such safeguard actions closely to ensure that the ITC applies the guidelines set forth in the Statement of Administrative Action.

Part 3—General Provisions

Section 315: Provisional relief

Section 315 makes citrus products eligible for provisional relief under section 202(d) of the Trade Act of 1974, which provides for an expedited ITC investigation and determination with respect to perishable agricultural products. Citrus products that will be explicitly eligible under this provision for such procedures are processed oranges, processed grapefruit, and orange and grapefruit juice (including concentrate).

Section 316: Monitoring

Section 316 requires the ITC to monitor imports of tomatoes and peppers for 10 years. This will allow for an expedited determination concerning import relief with respect to these commodities. At the request of the ITC, the Department of Agriculture and the Customs Service shall provide it with information needed for such monitoring.

Section 317: Procedures concerning the conduct of ITC investigations

Section 317 requires the ITC to adopt such procedures and rules and regulations as necessary to bring its procedures into conformity with Chapter 8. Subsection (b) further provides that the procedures set forth in section 332(g) of the Tariff Act of 1930 concerning the release of confidential business information will apply to information received by the ITC in the course of investigations conducted under the NAFTA bilateral safeguard provisions and global safeguard provisions.

Section 318: Effective date

This section provides the effective dates for the provisions of Subtitle A.

Section 321: Agriculture

Section 321(a) amends the Meat Import Act of 1979 to exclude qualifying Mexican meat articles (as determined in accordance with the NAFTA's rules of origin) from that Act's formula calculations, which establish the quantities of meat articles that may be imported without triggering the imposition of an import quota. It also removes Mexico from the supplying countries to which any allocated meat import quota would apply; Canada already receives the same treatment pursuant to the CFTA Act. Finally, it authorizes the President to exclude from the import limitations certain high-quality beef specially processed into fancy cuts that originates in a NAFTA country under the NAFTA rules of origin.

The Meat Import Act's application to Canada continues to be subject to section 301(b) of the CFTA Act, including subsection (b)(5), which authorizes the President to impose restrictions on imports of Canadian meat articles where he determines this is necessary to prevent frustration of the Meat Import Act's limitations on imports from other countries.

The remainder of section 321's provisions on agriculture are not within the jurisdiction of the Committee on Finance.

TITLE IV—DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Chapter 19 of the NAFTA, like Chapter 19 of the CFTA, establishes a mechanism for resolving disputes among the NAFTA countries arising from antidumping and countervailing duty determinations. In essence, judicial review of antidumping and countervailing duty determinations is replaced by a binational panel process. The process will operate, for the most part, as it operates under the CFTA. In addition, like the CFTA, the NAFTA includes extraordinary challenge procedures that will allow a Party to challenge binational panel decisions if there are allegations that a panel member was guilty of gross misconduct, bias or a serious conflict of interest, or a panel seriously departed from fundamental rules of procedure, or manifestly exceeded its powers, as long as other criteria are also met. Unlike the CFTA, the NAFTA expressly provides that a panel that fails to apply the appropriate standard of review may be determined to have manifestly exceeded its powers. In addition, the NAFTA includes a special safeguard for the binational panel process—a safeguard that is not included in the CFTA. Under Article 1905, if a Party alleges that another NAFTA Party has, through the application of its domestic law, frustrated the binational panel process, consultations are required. If these do not resolve the problem, the complaining Party may request the establishment of a "special committee" to review the allegation. If, after an affirmative determination by the special committee, the Parties are still not able to resolve the conflict, the complaining Party may suspend the operation of the binational panel process.

Title IV implements Chapter 19 by amending existing U.S. law relating to the CFTA binational panel process to reflect the extension of the process to goods from Mexico, establishing procedures for requesting binational panel review, providing an organizational structure for administering the binational panel process, and providing transitional provisions in the event that the binational panel review process is terminated as a result of action under Article 1905. Title IV also makes conforming changes to other U.S. laws to reflect the expansion to Mexico of the binational panel process established under the CFTA. Because the binational panel process under the NAFTA is modeled after the CFTA binational panel process, the Committee's report (Senate Report 100-509) accompanying H.R. 5090, the CFTA Act, continues to reflect the Committee's views with respect to those elements of the binational panel process that are carried forward to the NAFTA, where amendments have been made by this Title only to extend the process to goods from NAFTA countries.

SUBTITLE A—ORGANIZATIONAL, ADMINISTRATIVE, AND PROCEDURAL PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTER 19 OF THE NAFTA

Section 401: References in subtitle

Section 401 provides that, for this Subtitle, the terms "annex", "chapter" and "article" refer to provisions of the NAFTA.

Section 402: Organizational and administrative provisions

Annex 1901.2 of the NAFTA provides for the establishment of binational panels and the selection of individuals to serve as panelists. On the date the NAFTA enters into force, Annex 1901.2 requires the Parties to establish and thereafter maintain a roster of individuals to serve as panelists under Chapter 19. Unlike the CFTA, the NAFTA requires that these rosters shall include judges and former judges to the fullest extent practicable. The parties are required to consult in developing the roster of at least 75 candidates, with each Party selecting at least 25 candidates, all of whom must be U.S., Mexican, or Canadian citizens. As required by Annex 1901.2, panelists must be of good character, high standing and repute, and are to be chosen strictly on the basis of objectivity, reliability, sound judgment, and general familiarity with international trade law. Further, candidates may not be affiliated with, or take instructions from, a Party. Panels will be comprised of five persons. Within 30 days of a request for a panel, each involved Party will appoint two panelists, in consultation with the other involved Party. Each Party will have the right to exercise four peremptory challenges. If the involved Parties are unable to agree on the selection of a fifth panelist, the Parties will decide by lot which Party will select the fifth panelist.

For extraordinary challenge committees and special committees established under Articles 1904 and 1905, respectively, committee members will be selected from a 15-person roster comprised of judges or former judges. Each Party will name five persons to the roster. Committees will be comprised of three persons. Upon a request for the establishment of a special committee or extraordinary challenge committee, each Party will select one member from the roster and the involved Parties will decide by lot which Party will select the third member from the roster.

Section 402 sets forth the procedures the United States will follow in selecting individuals for placement on Chapter 19 rosters. One procedure, described in subsection (b), applies only to judges of courts created under Article III of the Constitution. The other procedure, provided in subsection (c), applies to all other persons, and is identical in most respects to the roster selection process established under the CFTA Act.

Subsection (a) provides that all candidates must meet the general selection criteria, as set forth in Annex 1901.2 (regarding the establishment of binational panels) and Annex

1904.13 (regarding the establishment of extraordinary challenge committees); these criteria are described above. This subsection also requires that the selection of individuals for placement on candidate lists and rosters and for appointment to binational panels, extraordinary challenge committees, and special committees must be made without regard to political affiliation.

Subsection (a) further provides that the rosters of potential panelists shall be comprised to the fullest extent practicable of judges and former judges and requires the USTR to appoint judges and former judges to serve on panels and committees convened under Chapter 19, subject to their availability. This subsection implements the obligations of Annex 1901.2, which, as described above, expresses a preference for the inclusion of judges and former judges on Chapter 19 rosters. In requiring the USTR to appoint judges where they are available, subsection (a) takes into account the existing canons of the Code of Conduct for United States Judges. Under Canon 5G, Federal judges may undertake responsibilities outside the scope of their judicial duties if Congress authorizes the appointment of judges as long as service would not, in the judge's view, interfere with the performance of judicial responsibilities or otherwise impair public confidence in their integrity or impartiality.

The Committee strongly believes that judges and former judges should be encouraged to serve on binational panels. As discussed in greater detail in a later section of this report, the Committee is concerned that binational panels constituted under the CFTA have, in several cases, failed to apply the appropriate standard of review. The Committee believes that this problem could be ameliorated to some extent through the participation of judges and former judges in the panel process. In addition, the Committee believes that the use of judges and former judges may avoid potential conflict of interest problems that may arise when members of the trade bar, trade consultants, or other experts in international trade are appointed to serve on binational panels and committees. The Committee recognizes that these individuals are sometimes called upon to make decisions regarding issues that may arise in other cases in which they or their firms are participating. It may be difficult to ensure that panelists fully segregate their client interests from their responsibilities on binational panels. Again, the Committee believes that appointing sitting judges to binational panels could help avoid potential conflicts. While the Committee recognizes that it is unlikely that judges will be available for service in sufficient numbers to ensure that only judges are selected for Chapter 19 panels, the Committee believes that the USTR should appoint the maximum number of judges and former judges possible. To this end, the Committee urges the USTR to look not only to sitting Article III judges, but also to Administrative Law Judges and retired judges who meet the qualifications set forth in Annex 1901.2.

Subsection (b) establishes a special process for the appointment of Article III judges to serve on Chapter 19 panels and committees. Under this subsection, the USTR is required to consult with the chief judges of the Federal judicial circuits regarding the interest in, and availability for, the participation in Chapter 19 panels and committees of judges within their circuits. The chief judge will identify interested and available judges for the Chief Justice of the United States, who may submit any names to the USTR. Any judges whose names are submitted shall be placed on the roster, and the names of such judges shall be forwarded to the Senate Committees on Finance and the Judiciary and House Committees on the Judiciary and Ways and Means. Before making an appointment to a panel, the USTR is required to consult with the judge to determine her or his availability. The Committee recognizes that these special procedures for the appointment of Article III judges have been developed to address potential separation-of-powers issues and take into account the workload of individual judges as well as the workload of the circuit in which they sit. Nonetheless, the Committee hopes that a substantial number of judges will be available for appointment to Chapter 19 panels and committees, particularly given the fact that, but for the binational panel process, appeals of antidumping and countervailing duty determinations would be heard in Federal courts.

Subsection (c) sets forth the selection process for individuals other than Article III judges. This process parallels the panelist selection process established in section 405 of the CFTA Act. The NAFTA selection process includes, however, one element not included in the CFTA Act. At the time that candidate lists are submitted to the Committees on Finance and Ways and Means, the USTR will be required to submit a statement of professional qualifications for each individual proposed to be included on the roster. The Committee's expectations are described more fully below.

Subsection (c) establishes the following procedures for placing individuals on Chapter 19 rosters:

(1) Establishment of an interagency group.—An interagency group chaired by USTR will: (a) prepare by January 3 of each year a list of individuals qualified to serve as members of binational panels, extraordinary challenge committees, or special committees convened under Chapter 19; (b) prepare by July 1 of each year a list of individuals qualified to be added to the final candidate list if the USTR so requests; (c) oversee the administration of the United States Section (authorized under section 105 of this bill); and (d) make recommendations to the USTR regarding the convening of extraordinary challenge committees.

(2) Preliminary candidate lists.—The USTR shall select individuals from the lists for placement on preliminary candidate lists to serve on panels or committees and, by January 3 of each year, shall submit these lists to the Committees on Finance and Ways and Means.

(3) Information required by Committees.—At the time the USTR submits candidate lists, it shall submit to the Committees on Finance and Ways and Means a statement of professional qualifications for each individual. The Committee intends that the statement include, in addition to a resume or general biographical data, a list of clients represented by the individual or her or his firm, or other information the Committee deems appropriate. The Committee believes that the Committee will be better able to ensure that the most qualified individuals are selected for placement on Chapter 19 rosters and to screen prospective panelists for potential conflicts of interest if this additional information is provided.

(4) Final candidate lists and amendments.—The USTR may add or delete individuals after consulting with the Committees and providing written notice of any addition or deletion. By March 31 of each year, the USTR shall submit to the Committees final lists of candidates selected by the USTR as eligible to serve on panels and committees convened under Chapter 19 during the one-year period beginning on April 1. An individual not on a preliminary list may be included on the final candidate list only if the USTR provided written notice of the addition to the Committees at least 15 days before submission of that final list. No additions may be made to the final lists for a particular year after they are submitted to the Committees unless the USTR, before July 1 of that year, determines that additional individuals are needed. A similar selection, Committee notice and consultation process then applies, and the USTR must submit the final form of any proposed amendment to a final candidate list to the Committees by September 30 of that year to take effect on October 1 for eligibility to serve during the next six months, to April 1 of the following year.

Section 402(d) provides that only the USTR is authorized to select individuals for placement on rosters or appoint individuals to binational panels, extraordinary challenge committees, or special committees on behalf of the United States. This provision tracks current law with respect to the CFTA panel process. Selection and appointment must be made from the lists of Article III judges provided to the Senate Committees on Finance and the Judiciary and House Committees on Ways and Means and the Judiciary or from the final candidate lists, or final forms of amendments to the candidates lists, submitted to the Committees on Finance and Ways and Means. The Committee recognizes that a need may arise for the selection of panelists during the three-month period after the NAFTA enters into force, and therefore before the process established in sections 402(b) and (c) can be completed. Accordingly, subsection (d) provides that individuals may, during that three-month period, be chosen from the preliminary candidate lists submitted to the Committees on Finance and Ways Means.

The selection process established in subsections (b) and (c) assumes that the NAFTA will enter into force on January 1, 1994. If the NAFTA enters into force at a later date, the roster selection process will have to proceed on a different timetable for the remainder of the calendar year in which the NAFTA enters into force. Subsection (e) sets out the transitional timetable.

Subsection (f) provides that, except for violations of protective orders or undertakings covering proprietary information, individuals serving as panelists, and the assistants to such individuals, shall be immune from suit and legal process relating to acts performed in their official capacity. This provision tracks existing law with respect to the CFTA panel process.

Under subsection (g), the administering authority (currently the International Trade Administration of the Department of Commerce), the ITC, and the USTR are authorized to issue such regulations as are necessary or appropriate to carry out their responsibilities under Chapter 19. Initial regulations, if any are required, are to be issued before the NAFTA enters into force.

Section 402(h) requires the USTR, at the time of submission of the final candidate lists and the final forms of amendments to candidate lists, to submit to the Senate Committees on Finance and the Judiciary and the House Committees on the Judiciary and Ways and Means a report on the efforts made to secure the participation of judges

and former judges on binational panels, extraordinary challenge committees, and special committees. The Committee intends to review these reports carefully to ensure that the USTR is making best efforts to ensure that judges and former judges are serving on Chapter 19 panels and committees to the fullest extent practicable.

Section 403: Testimony and production of papers in extraordinary challenges

Paragraph 13 of Article 1904 provides that an extraordinary challenge committee may be convened if a NAFTA Party alleges that a panelist is guilty of gross misconduct, bias, or a serious conflict of interest, or otherwise materially violated the rules of conduct. Section 403 provides measures to assist an extraordinary challenge committee in investigating any such allegations; similar provisions were provided under section 407 of the CFTA Act. This section gives an extraordinary challenge committee access to relevant documents, and provides the authority to summon witnesses, take testimony, administer oaths, require the production of documents, issue subpoenas, and order depositions. Under this section, an extraordinary challenge committee may request the Attorney General to invoke the aid of any district or territorial court of the United States in compelling the attendance and testimony of witnesses and the production of documents.

The Committee recognizes that the right to invoke extraordinary challenge procedures is, under the NAFTA as under the CFTA, reserved to the Governments of the NAFTA countries. The Committee urges the Administration, however, to provide the private sector with guidance as to how private parties may request the Administration to pursue an extraordinary challenge. The Committee is mindful that the rights of private parties are at stake in the determinations made by the binational panels and the Committee believes, therefore, that interested parties should be heard by the Administration before it decides whether to request the establishment of an extraordinary challenge committee.

Section 404: Requests for review of determinations by competent investigating authorities of NAFTA countries

Section 404 sets forth the procedures for requesting binational panel review under Chapter 19. Subsection (b) authorizes the U.S. Secretary, as identified in Article 1908, to request binational panel review of final antidumping and countervailing duty determinations. Under subsection (c), a person within the meaning of paragraph 5 of Article 1904, may request binational panel review by filing a timely request with the U.S. Secretary; if such a request is filed, it will be deemed to be a request for binational panel review under Article 1904. Subsection (d) requires the U.S. Secretary to notify all persons who would otherwise be entitled under the law of the importing country to commence proceedings for judicial review of a determination whenever binational panel review of a final determination is requested. These procedures parallel the procedures established in section 408 of the CFTA Act.

Section 405: Rules of procedure for panels and committees

The Parties are required to develop rules of procedure for binational panels (in accordance with paragraph 14 of Article 1904), for extraordinary challenge committees (in accordance with paragraph 2 of Annex 1904.13), and for special committees (in accordance with Annex 1905.6). Binational panels rules are to be developed by January 1, 1994, and extraordinary challenge committee and special committee rules by the date of entry into force of the NAFTA. Section 405 authorizes the Department of Commerce to prescribe such rules and requires that they be published in the *Federal Register*.

Section 406: Subsidy negotiations

Article 1907(2) of the NAFTA provides that the NAFTA countries will consult on the potential for (1) development of more effective rules and disciplines on the use of government subsidies; and (2) reliance on a substitute system of rules for dealing with unfair transborder pricing practices and government subsidization. This revises the mechanism under Article 1907 of the CFTA, which established a working group to develop, within five-to-seven years, more effective rules and disciplines on government subsidies and a substitute system of rules for dealing with subsidization and unfair pricing. Pursuant to that provision, section 409(a) of the CFTA Act granted the President authority to negotiate an agreement with Canada to provide for increased disciplines on subsidies and to deal with subsidization and unfair pricing. The working group mechanism under Article 1907 of the CFTA, however, proved inadequate to address continuing problems related to high levels of Canadian subsidization.

Section 406 sets forth the negotiating objectives of the United States with respect to subsidies, for any future trade negotiations with a NAFTA country:

(1) achievement of increased discipline on domestic subsidies provided by a foreign government, including the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations; the provision of goods or services at preferential rates; the grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and the assumption of any costs or expenses of manufacture, production, or distribution;

(2) achievement of increased discipline on export subsidies provided by a foreign government, particularly with respect to agricultural products; and

(3) maintenance of effective remedies against subsidized imports, including, where appropriate, countervailing duties.

In the Committee's view, the more detailed negotiating objectives spelled out in section 406 reflect the importance to both the U.S. Government and U.S. industries of achieving more effective rules and disciplines concerning the use of government subsidies. At the same time, they build upon the concerns set out in section 409(a) of the CFTA Act with respect to obtaining greater disciplines on Canadian subsidy programs that adversely affect U.S. industries which directly compete with subsidized imports. These objectives are also consistent with the objectives on addressing unfair trade practices, including subsidies, set forth at section 1101(b)(8) of the Omnibus Trade and Competitiveness Act of 1988. The Committee anticipates close consultation with the Administration with respect to any future subsidy negotiations conducted pursuant to Article 1907.

Section 407: Identification of industries facing subsidized imports

Section 407, which is largely consistent with section 409(b) of the CFTA Act, establishes a process for the identification of domestic industries that are likely to face subsidized imports. It provides that an entity (including a trade association, firm, union, or group of workers) that is representative of a U.S. industry may file a petition if it has reason to believe that the industry:

(1) is likely to face increased competition from subsidized imports with which it directly competes from a NAFTA country or from any other country designated by the President as benefiting from a reduction of tariffs under a trade agreement that enters into force for the United States after January 1, 1994; and

(2) is likely to experience a deterioration of its competitive position before rules and disciplines relating to the use of government subsidies have been developed with respect to the United States and that country.

The industry may request that the USTR compile information or that the ITC conduct a study of the foreign practices, following the completion of which the USTR may take any appropriate action.

The Committee notes that the Statement of Administrative Action, submitted on November 4, 1993, provides that if, after receiving a petition, the USTR finds a reasonable likelihood that the industry may face both subsidization and deterioration of its competitive position but decides not to identify the industry, then it should monitor foreign government actions for potential subsidization (with particular attention to the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations). It is the Committee's expectation that the USTR will undertake such monitoring if it finds such a reasonable likelihood but nevertheless does not identify the industry under the statute, including where they may be evidence of future subsidization but no subsidies actually have been provided at the time of the USTR's determination. This is consistent with the USTR's recent decision on the petition filed under section 409(b) of the CFTA Act by Vista Chemical Company concerning potential imports of linear alkylbenzene (LAB) production from Canada. Monitoring in that case will continue under section 407.

Section 408: Treatment of amendments to antidumping and countervailing duty law

NAFTA Article 1902 provides that amendments to the antidumping and countervailing duty laws of a Party shall apply to goods from NAFTA Parties only if the amendment explicitly states that it applies to such goods. Section 308 implements Article 1902 by requiring that any such amendments will apply to goods from a NAFTA country only to the extent specified in the amendment. This section tracks section 404 of the CFTA Act, which implements a similar provision in the CFTA.

SUBTITLE B—CONFORMING AMENDMENTS AND PROVISIONS

Section 411: Judicial review in antidumping and countervailing duty cases

Section 411 makes conforming changes to a number of provisions of section 516A of the Tariff Act of 1930, relating to judicial review of countervailing duty and antidumping duty proceedings. Generally, section 516A establishes the right of interested parties to judicial review of final antidumping and countervailing duty determinations. Normally, such determinations are reviewable by the Court of International Trade (CIT), whose decisions may in turn be appealed to the Court of Appeals for the Federal Circuit, and by certiorari to the U.S. Supreme Court. The CFTA Act amended section 516A to prohibit judicial review of antidumping and countervailing duty determinations involving merchandise from Canada where binational panel review was requested and to establish the rules and procedures for such binational panel review. Section 411 amends section

516A to implement the NAFTA binational panel process. For the most part, these changes merely reflect that the binational panel process will apply to goods from NAFTA Parties, just as it currently applies to goods from Canada under the CFTA.

Before describing these changes, the Committee notes that the extension of the binational panel process to merchandise from Mexico has afforded the Committee an opportunity to review the binational panel process as it has operated under the CFTA. The Committee wishes to highlight several concerns that have arisen in the course of its review.

At the outset, the Committee emphasizes that the NAFTA, just as the CFTA, *requires* binational panels to apply the same standard of review and general legal principles that domestic courts would apply. This requirement is the foundation of the binational panel system. The Committee believes, however, that CFTA binational panels have, in several instances, failed to apply the appropriate standard of review, potentially undermining the integrity of the binational panel process.

Specifically, the Committee believes that some binational panels have not afforded the appropriate deference to U.S. agency determinations required by the United States Supreme Court in the Chevron decision (*Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984)) and its progeny. Absent a direct conflict with the plain language of the statute, panels, like the courts for which they substitute, are restricted to examining whether the agency's view is a permissible construction of the statute. The Committee emphasizes in this regard that it is the function of the courts, and thus panels, to determine whether the agency has correctly applied the law, not to make the ultimate decision that Congress has reserved to the agency.

Second, the Committee is concerned that, in several cases, binational panels have misinterpreted U.S. law and practice in two key substantive areas of U.S. countervailing duty law—regarding the so-called "effects test" and regarding the requirement that a subsidy must be "specific" to an industry. Thus, the Committee believes it is appropriate to clarify U.S. law and practice in these two areas, so that these misinterpretations can be corrected.

Economic Effects Test.—In a recent case (*Certain Softwood Lumber from Canada*, USA-92-1904-01, Decision of the Panel (May 6, 1993)), the binational panel misinterpreted U.S. law to require that, even after the Department of Commerce has determined that a subsidy has been provided, the Department must further demonstrate that the subsidy has the effect of lowering the price or increasing the output of a good before a duty can be imposed.

Such an "effects" test for subsidies has never been mandated by the law and is inconsistent with effective enforcement of the countervailing duty law. As the Department of Commerce explained in *Certain Flat-Rolled Carbon Steel Products from Austria* (General Issues Appendix), 58 Fed. Reg. 37217, 37260 (July 9, 1993):

Nothing in the statute directs the Department to consider the use to which subsidies are put or their effect on the recipient's subsequent performance. *See* 19 U.S.C. section 1677(6). Nothing in the statute conditions countervailability on the use or effect of a subsidy. Rather, the statute requires the Department to countervail an allocated share of the subsidies received by producers, regardless of their effect.

The Department went on to note, correctly, that Congress had explicitly rejected the use of "effects" tests in the Trade Agreements Act of 1979. As the Department noted in the "General Issues Appendix" in the *Flat-Rolled Carbon Steel Products from Austria* case (58 Fed. Reg. at 37261), "[b]ecause the statute, legislative history, judicial opinions, and the Department's regulations do not permit an analysis of the use and effect of subsidies, the Department does not attempt such an analysis."

From a policy perspective, the Committee believes that an "effects" analysis should not be required. First, "effects" analyses by nature are highly speculative. For purposes of administering the law, it is burdensome and unproductive for the Department of Commerce to attempt to trace the use and effect of a subsidy demonstrated to have been provided to producers of the subject merchandise. Second, a strict rule that the benefit received by foreign producers as a result of government action will be offset (or countervailed) acts as a deterrent to further subsidization.

Specificity.—The Committee agrees with current Department of Commerce practice with respect to specificity—whether a subsidy is provided only to a specific enterprise or industry. In its *Proposed Regulations* (54 Fed. Reg. 23366, 23379 (May 31, 1989)), the Department set forth four factors that *may* be considered in determining whether specificity exists. Under its current practice, the Department of Commerce may base a finding that a subsidy is specifically provided on one or more relevant factors.

Several recent binational panels (*e.g, Certain Softwood Lumber from Canada*, USA-92-1904-01, Decision of the Panel (May 6, 1993); *Live Swine from Canada*, USA-91-1904-04, Decision of the Panel (August 26, 1992)) have misinterpreted U.S. law and practice to require the Department to consider and weigh all relevant factors. However, another binational panel (*In the Matter of Pure and Alloy Magnesium from Canada*, USA-92-1904-03, Decision of the Panel 28-35 (August 16, 1993), correctly concluded that current Department practice is proper on the question of specificity. Due to this confusion, the Committee believes it is appropriate to clarify how U.S. law should be applied.

It has been, and remains the intent of Congress that the Department have wide discretion to determine whether specificity exists in any particular case, in light of the requirement of the countervailing duty law that the Department countervail fully subsidies that are conferred on particular industries or group of industries. A finding that benefits are limited by law to a particular industry is sufficient to support a specificity finding. Furthermore, in conducting a specificity analysis, the Department correctly will find *de facto* specificity where one or more of the four factors typically considered by the Department supports a finding of specificity. One factor alone could be sufficient for a *de facto* specificity finding. For example, the Department's longstanding policy and practice, based on a correct interpretation of the law and its purpose, has been that the fact that there are too few users of a subsidy program is, in and of itself, sufficient for a finding of specificity, without an analysis of whether, for example, the industry under investigation (or group of industries) is a dominant user of the benefits of that program. If analysis of any one factor is not dispositive, the Department may review multiple factors in conjunction with one another and weigh the factors as the Department deems appropriate. If *de facto* specificity exists, the cause of the *de facto* specificity (*e.g.*, the inherent characteristics of the subsidy) is irrelevant.

It is the Committee's expectation that, in the future, binational panels will properly apply U.S. law and the appropriate standard of review, giving broad deference to the decisions of both the Department of Commerce and the ITC. If they do not, the Committee expects the Administration to avail itself of the extraordinary challenge procedures set forth in Annex 1904.13. Paragraph 13 of Article 1904 specifically provides that extraordinary challenge procedures may be invoked where a panel has manifestly exceeded its powers, authority or jurisdiction by failing, for example, to apply the appropriate standard of review, where such action has materially affected the panel's decision and threatens the integrity of the binational panel process. Because the central tenet of Chapter 19 is that a panel must operate precisely as would the court it replaces, the Committee believes that misapplication of U.S. law in important areas is a clear threat to the integrity of the Chapter 19 process.

As provided under Annex 1904.13, the Committee believes that an extraordinary challenge committee should vacate an original panel decision or remand it to the original panel for action not inconsistent with the committee's decision if a binational panel has based its decision on a material misinterpretation of U.S. law or has failed to apply the appropriate standard of review. The Committee believes that the mere fact that a panel claims to have applied U.S. law and the proper standard of review is not a sufficient basis for an extraordinary challenge committee to uphold a panel decision if the committee's serious inquiry into the matter, as required under Annex 1904.13, reveals that the panel has not, in fact, properly applied U.S. law or the standard of review.

The paragraphs below describe the changes that section 411 makes to section 516A of the Tariff Act of 1930:

Time limits for commencing review.—Paragraph 1 of section 411 makes conforming amendments to section 516A(a) of the Tariff Act of 1930 to provide, as under the CFTA, that the 30-day time limit for requesting judicial review under section 516A shall not begin until the 31st day after the publication of notice of the antidumping or countervailing duty determination, or, in the case of scope rulings, the 31st day after notice is given to the appropriate NAFTA Government. This provision implements paragraph 15(c) of Article 1904, and recognizes that judicial review will continue to be available for antidumping and countervailing duty determinations involving merchandise from NAFTA countries if binational panel review is not requested. However, as required by Article 1904, procedures for commencing judicial review under these circumstances may not begin until after the period for requesting binational panel review has expired.

Paragraph 1 also includes a substantive change from the CFTA provisions regarding the time limits for requesting judicial review in cases where a binational panel has dismissed binational panel review for lack of jurisdiction. In such cases, if an interested party with standing to file a summons and complaint has given timely notice that it intends to seek judicial review, the time limit for filing a summons and complaint in the CIT will begin to run the day after the dismissal, rather than on the 31st day after the dismissal, as under the CFTA. However, if a

request for an extraordinary challenge committee is made with respect to the dismissal, section 411(1) provides that judicial review will be stayed during the consideration of the request and the CIT shall dismiss the action if the committee vacates or remands the dismissal decision. In cases where review by the CIT is provided as a result of the suspension of the binational panel review process or because of a settlement with a NAFTA country pursuant to Article 1905(7) that specifically provides for CIT review, the period for requesting such review shall not begin until the day after the notice of suspension or settlement is published in the Federal Register.

Effect of panel decisions on other cases.—Section 411(2) makes conforming amendments to section 516A(b) of the Tariff Act of 1930 to provide that, in making a decision in any judicial review proceeding brought under section 516A(a), a U.S. court is not bound by (but may take into consideration) a final decision of a binational panel or extraordinary challenge committee. The Committee intends, as was the case under the CFTA, that a binational panel decision will be binding only with respect to the particular matter before the panel and that a U.S. court's consideration of panel decisions will be limited to the intrinsic persuasiveness of the statements in those decisions. A U.S. court should view panel decisions in the same fashion as it would view statements of respected commentators on the application of U.S. law. The binational panel process is not to effect any change in the substantive law of the United States or to provide any benefit to importers of goods from third countries. Thus, panel decisions will not be binding on the CIT, even if the same or related issues are raised in court actions reviewing determinations of the Department of Commerce or the ITC.

Definitions.—Paragraph 3 of section 411 amends paragraph (f) of section 516A of the Tariff Act of 1930 by adding a reference to the NAFTA in the definition of "United States Secretary", replacing the definition of "Canadian Secretary" with a definition of the "relevant FTA Secretary" to encompass all NAFTA Parties, and by defining the terms "NAFTA", "Relevant FTA Country", and "Free Trade Area Country", which are terms used in other sections of section 516A of the Tariff Act of 1930, as amended by this bill.

Review of antidumping and countervailing duty determinations involving merchandise from NAFTA countries.—Paragraph 4 of section 411 makes conforming amendments to subsection (g) of section 516A of the Tariff Act of 1930. Subsection (g) was added to the law in the CFTA Act; it represents the core of the rules and procedures established to implement the binational panel process. Section 411(4)(A) makes conforming changes to the subsection heading.

(1) *Definition of determination.*—Paragraph 4(B) of section 411 makes conforming amendments to subsection (g)(1), which identifies the determinations made by the Department of Commerce and the ITC that are subject to binational panel review. As defined in Annex 1911, the determinations reviewable by NAFTA binational panels are: final determinations by the Department of Commerce or the ITC under sections 705 or 735 of the Tariff Act of 1930; determinations by the Department of Commerce or the ITC under section 751 of the Tariff Act of 1930; and class or kind determinations by the Department of Commerce.

(2) *Exclusive review of determinations by binational panels.*—Section 411(4)(C) makes conforming amendments to section 516A(g)(2) of the Tariff Act of 1930 to provide that, as under the CFTA Act, final antidumping and countervailing duty determinations with regard to merchandise from a NAFTA country shall not be reviewable under section 516A, and no U.S. court has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise if binational panel review has been requested.

(3) *Exception to exclusive binational panel review.*—Paragraphs 4(D) and (E) of section 411 amend section 516A(g)(3) of the Tariff Act of 1930 to make conforming changes to the existing exceptions to the general rule that binational panel review replaces judicial review. These exceptions provide that determinations continue to be subject to judicial review under section 516A(a) if: (1) neither the United States nor the relevant NAFTA country requested review of the determination by a binational panel, but only if the Party seeking judicial review has provided timely notice of its intent to commence such review to the relevant Secretaries, all interested parties to the proceeding, and the administering authority or the ITC, as appropriate; (2) the determination is a revised determination issued as a direct result of judicial review if neither the United States nor the relevant NAFTA country requested review of the original determination; (3) the determination is issued as a direct result of judicial review that was commenced prior to entry into force of the NAFTA; or (4) the determination is not reviewable by a binational panel. Paragraph 4(D) provides a fifth exception to binational panel review to reflect the provisions of NAFTA Article 1905 safeguarding the binational panel process: judicial review is available if the binational panel process is suspended pursuant to paragraph 12 of Article 1905. These exceptions track the exceptions found in paragraph 12 of Article 1904.

(4) *Exception to exclusive binational panel review for constitutional issues.*—Paragraph 4(F) of section 411 makes conforming amendments to section 516A(g)(4) of the Tariff Act of 1930 to apply to the NAFTA binational panel process the procedures set up under the CFTA with regard to constitutional challenges to the binational panel system and to constitutional issues that may arise out of an antidumping or countervailing duty determination. Paragraph 4(F) also clarifies that the U.S. Court of Appeals for the District of Columbia Circuit has exclusive jurisdiction over any constitutional challenges to the binational panel system.

(5) *Liquidation of entries.*—Section 411(4)(G) makes conforming amendments to section 516A(g)(5) of the Tariff Act of 1930 to provide that, as under the CFTA Act, entries of merchandise covered by binational panel determinations shall be liquidated in a manner consistent with liquidation of entries subject to normal judicial review. Entries covered by such a determination that are entered prior to publication of a conflicting decision by a binational panel or extraordinary challenge committee shall be liquidated in accordance with the original determination. If the determination being reviewed by a panel is a determination in a section 751 review or a determination regarding the scope of an existing order, the Department of Commerce shall, upon request of an interested party who was a party to the proceeding and is a participant in the panel review, order continued suspension of liquidation of some or all entries pending final disposition of the panel review. Such actions shall not be subject to judicial review.

(6) *Injunctive relief.*—Paragraph 4(H) of section 411 makes conforming amendments to section 516A(g)(6) of the Tariff Act of 1930 to provide that, as under the CFTA Act, the provision of section 516A(c)(2) relating to injunctive relief shall not apply.

(7) *Implementation of international obligations under Article 1904.*—Section 411(4)(I) makes conforming changes to section 516A(g)(7) of the Tariff Act of 1930, which provides that, in the case of remands by a binational panel or extraordinary challenge committee, the administering authority or the ITC shall take action not inconsistent with the panel or committee determination within the time frame specified in the remand.

(8) *Requests for binational panel review.*—Paragraphs 4(J) through 4(L) of section 411 make conforming amendments to section 516A(g)(8) of the Tariff Act of 1930 to provide that an interested party who was a party to an antidumping or countervailing duty proceeding may file a request for a binational panel review of the determination with the U.S. Secretary within 30 days after publication of the notice of the final determination or, in the case of class or kind rulings, receipt of the notice of the determination by the Government of the relevant NAFTA country. Receipt of such a request from an interested party by the U.S. Secretary shall be deemed a request for binational panel review. The party making the request must notify any other interested party and the Department of Commerce or ITC, as appropriate. The U.S. Secretary must notify interested parties and the Department of Commerce or ITC, as appropriate, if an interested party files a request for binational panel review with a NAFTA Government. Absent a request by an interested party, the U.S. Government cannot request binational panel review. Paragraph J also provides that the time for requesting binational panel review shall be suspended during the pendency of any stay issued pursuant to Article 1905(11)(b).

(9) *Representation in panel proceedings.*—Section 411(4)(M) makes conforming amendments to section 516A(g)(9) of the Tariff Act of 1930 to provide, as under the CFTA Act, that interested parties have the right to appear and be represented by their own counsel before the binational panel. The administering authority (currently the Department of Commerce) and the ITC will be represented by attorneys who are employees of those agencies.

(10) *Notification of class or kind rulings.*—Paragraph 4(N) of section 411 amends section 516A(g)(10) of the Tariff Act of 1930 to require the Department of Commerce, upon request, to inform any interested persons of the date on which the Government of the relevant NAFTA country received notice of a class or kind ruling.

(11) *Suspension of binational panel process and provisions for judicial review in case of such suspension.*—As noted above, NAFTA Article 1905 includes special provisions for safeguarding the binational panel process if the application of the domestic law of a NAFTA country frustrates the binational panel system. If consultations fail to resolve the dispute, and if a special committee convened under Article 1905 finds that a NAFTA Party's domestic law has indeed frustrated the system, the complaining party may suspend the operation of the binational panel process. Section 411(4)(O) adds two new paragraphs—paragraphs 11 and 12—to section 516A(g) of the Tariff Act of 1930 to address

this possibility, as well as the possibility that such suspension may eventually terminate.

New paragraph 11 authorizes the USTR to suspend the operation of the binational panel process in the event of an affirmative finding by a special committee established under Article 1905. It provides further that such suspension shall be terminated if a special committee is reconvened and finds that the problem has been corrected.

New paragraph 12 provides that if the binational panel process is suspended, any final antidumping or countervailing duty determination that is pending before a binational panel or an extraordinary challenge committee shall be transferred to the CIT if requested by an authorized person. Persons authorized to make such a request are described in subparagraph (C) of paragraph 12. In addition, if a binational panel review was completed fewer than 30 days before the binational panel process was suspended and an extraordinary challenge committee has not been requested, paragraph 12 also provides that the final determination that was the subject of the binational panel shall be transferred to the CIT. Paragraph 12 also acknowledges that, in some circumstances, a settlement with a NAFTA country of a dispute arising under Article 1905 may include, as part of its terms, judicial review of certain determinations. In such cases, paragraph 12 provides that any final determinations that are the subject of binational panel review or review by an extraordinary challenge committee will be transferred to the CIT if the terms of the settlement provide for judicial review with respect to such determinations. Finally, new paragraph 12 also requires that notice be published in the *Federal Register* if the United States or a NAFTA country has suspended the binational panel process.

Section 412: Conforming amendments to other provisions of the Tariff Act of 1930

Section 412 makes conforming amendments to other provisions of the Tariff Act of 1930. Under section 502 of the Tariff Act of 1930, no ruling of the Secretary of the Treasury construing any law imposing customs duties shall be reversed or modified adversely to the United States, except in concurrence with an opinion of the Attorney General, a final CIT decision, or a final decision from a CFTA binational panel. Subsection (a) amends section 502 to include a reference to final decisions by NAFTA binational panels. This subsection also amends section 514 of the Tariff Act of 1930 to provide that Customs Service determinations made with respect to antidumping and countervailing duties are final and conclusive upon all persons unless a civil action contesting such a determination is filed in the CIT or binational panel review under the CFTA or the NAFTA is commenced.

Subsection (b) adds to the definitions in Title VII of the Tariff Act of 1930 (as set forth in section 771 of the Tariff Act of 1930) a definition of the term "NAFTA."

Subsection (c) amends section 777(f) of the Tariff Act of 1930 to include references to the NAFTA. Section 777(f) sets forth procedures for the protection of proprietary information. The amendments made by subsection (c) make it unlawful, as under the CFTA Act, for any person to violate any provision of a U.S. protective order or an undertaking with a NAFTA country to protect proprietary material. Any person who is found by the administering authority or the ITC (after notice and opportunity for a hearing) to have violated a provision of a protective order or undertaking shall be liable for a civil penalty of up to $100,000 for each violation and shall be subject to such other administrative sanctions (including disbarment from practice before the agency) as the administering authority or the ITC determines appropriate. Each day of a continuing violation constitutes a separate offense. The amendments made by subsection (c) also cover information provided in the course of extraordinary challenge proceedings.

In recognition of the fact that judges of the United States are subject to criminal proceedings for disclosure of confidential information (under 18 U.S.C. 1905), paragraph (8) of section 412(c) exempts Article III judges from civil sanctions for violations of protective orders when such judges serve as panelists or committee members in Chapter 19 proceedings. The Committee believes that the fact that criminal sanctions are available in such cases is sufficient to meet U.S. obligations under paragraph 8 of Annex 1901.2, which calls for appropriate sanctions in the event of violations of protective orders.

Section 413: Consequential amendment to the CFTA Act

Section 410(a) of the CFTA Act authorizes the establishment of a working group to discuss with Canadian officials, for a period of seven years, a substitute system for rules for antidumping and countervailing duties. Section 413 provides that any time during which the NAFTA is in effect with respect to Canada will be disregarded in computing the seven years.

Section 414: Conforming amendments to title 28, United States Code

Section 414 adds references to the NAFTA to amendments to Title 28 that were originally made in the CFTA Act. These provisions: (1) ensure that the residual jurisdiction of the CIT cannot be used to circumvent the binational panel system; (2) prohibit U.S. courts from ordering declaratory relief in antidumping or countervailing duty proceedings involving merchandise from NAFTA countries; and (3) give the CIT exclusive jurisdiction over civil actions to enforce administrative sanctions imposed for violations of protective orders.

Section 415: Effect of termination of NAFTA country status

Section 415 contains several transitional provisions for binational panel proceedings in the event that a NAFTA country ceases to be a NAFTA country. Subsection (a) provides that, on the date on which a country ceases to be a NAFTA country, the provisions of Title IV regarding the binational panel process and the amendments made by Title IV will cease to have effect with respect to that country.

Subsection (b) provides that if, at the time a country ceases to be a NAFTA country, proceedings are underway regarding the violation of a protective order, such proceedings shall continue and sanctions may be imposed. Subsection (b) also provides that determinations for which binational panel reviews or extraordinary challenge committee reviews are pending or have been requested will be reviewable under section 516A of the Tariff Act of 1930 if the involved country ceases to be a NAFTA country. In such cases, the time limit for requesting judicial review under section 516A will not begin to run until the date on which the NAFTA ceases to be in force with respect to that country.

Section 416: Effective date

Under section 416, the provisions of Title IV are to take effect on the date the NAFTA enters into force for the United States. However, the new provisions will not apply to: any final antidumping or countervailing duty determinations published before that date; scope determinations, notice of which was given to the Canadian Government before that date; or binational panel reviews or extraordinary challenges begun before that date.

TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

SUBTITLE A—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Sections 501 through 506 of this bill amend the Trade Adjustment Assistance (TAA) statute to create a new subchapter D for a NAFTA-specific worker adjustment assistance program.

Estimates vary greatly concerning how many U.S. workers are likely to lose their jobs as a result of the NAFTA. However, even those studies that project significant net U.S. employment job gains from the NAFTA recognize that some American workers will lose their jobs as a result of either increased imports from Mexico or Canada or shifts in production to those countries. As the Congressional Budget Office (CBO) noted in a July 1993 study on the budgetary and economic effects of the NAFTA, these displaced workers are likely to be among the most vulnerable and may have greater than average difficulty in finding new employment.

This new NAFTA program is intended to ensure that those workers who are dislocated as a result of the NAFTA receive assistance that enables them to return to productive employment. By expanding eligibility to include those who lose their jobs as a result of shifts in production to Mexico or Canada, not only as a result of increased imports, the new program is designed to remedy what has been identified as one of the shortcomings of the current TAA program. By combining TAA benefits (including income support payments for eligible workers, training, employment services, and job search and relocation allowances) with rapid response and other basic readjustment services available under other Department of Labor programs (which would be offered prior to final certification of eligibility for TAA benefits), it is intended to ensure that affected workers have the broadest possible menu of benefits and services available to them.

The Committee also notes that, as set out in the Statement of Administrative Action, the Department of Labor plans to provide assistance through other programs that it administers to workers in firms that are indirectly affected by the NAFTA. These include workers at "secondary" firms: those that supply firms that are directly affected by increased imports or shifts in production, or that assemble products made by such firms. The workers would not be eligible for TAA benefits. This is intended to respond to concerns that the eligibility criteria under the new Subchapter D program not serve as a reason for depriving other NAFTA-affected workers of various benefits.

Section 501: Short title

Section 501 provides that Subtitle A may be cited as the "NAFTA Worker Security Act".

Section 502: Establishment of NAFTA transitional adjustment assistance program

Section 502 amends Chapter 2 of Title II of the Trade Act of 1974 to add a new Subchapter D establishing the NAFTA Transitional Adjustment Assistance Program. It provides that a group of workers shall be certified as eligible to apply for adjustment assistance under the new subchapter if the Secretary of Labor determines that a significant

number or proportion of the workers in their firm (or its subdivision) have lost their jobs, or are threatened with such job loss, as a result of either (1) increased imports from Mexico or Canada of articles like or directly competitive with what their firm produces, or (2) a shift of production by their firm to Mexico or Canada of articles like or directly competitive with what their firm produces.

The first of these is the criterion used in the current TAA program. Like the current program, it must be coupled with a determination that the firm's sales or production have decreased in absolute terms and that the increase in imports contributed importantly to both the job loss and the decline in sales or production. The second expands upon current TAA eligibility to also reach workers who may be affected by production shifts as a result of the NAFTA.

Section 502 establishes that eligibility under the new program will be determined under a two-step process. Workers petition for certification of eligibility with the Governor of the State where the layoffs occurred. The Governor must make a preliminary finding regarding eligibility within 10 days of receiving the petition, and then transmit the petition and finding to the Secretary of Labor. If the Governor finds that the petition meets the eligibility criteria, the Governor shall ensure that the workers receive early readjustment services, including job search and placement assistance and career counseling. The Secretary of Labor then must make a final decision on the petition within 30 days of receiving it from the Governor. If certified as eligible by the Secretary, workers are entitled to the full range of current TAA services and benefits.

To remain eligible for TAA income support benefits under section 502, workers must enroll in a training program by the later of (1) the end of the 16th week of their period for receiving unemployment compensation, or (2) the end of the sixth week after they are certified as eligible for TAA benefits by the Secretary of Labor. However, the Secretary may extend the deadline for enrolling in training programs in extenuating circumstances for up to 30 days (such as where training courses are cancelled abruptly, or where there is a delay in the first available date of enrollment).

The requirement that workers enroll in a training program to remain eligible for income support is intended to address concerns about excessive waivers of the training requirement under the current TAA program. The Committee is concerned about abuses of the waiver authority, which were described in a September 30, 1993 report of the Department of Labor's Office of Inspector General. The TAA statute requires workers to enroll in approved training programs as a condition for receiving income support—unless they are specifically granted waivers from the training requirement. It is the Committee's view that the intent of the law was that such waivers be granted sparingly, not routinely. However, among the groups of TAA participants studied in the Inspector General's report, those who did not wish to attend training almost always were granted waivers from training without losing their entitlement to income support payments.

The Committee, therefore, welcomes the explicit linkage between continued eligibility for income support benefits and enrollment in training by a date certain that is set forth in section 502. It urges the Department of Labor to seek through administrative means to limit the waivers granted under the TAA program to the circumstances originally intended.

At the same time, the Committee is concerned that this training requirement not cause undue hardship for workers who, through no fault of their own (such as where training courses are cancelled abruptly, or where there is a delay in the first available date of enrollment), cannot meet the above deadline for enrolling in a training program. By authorizing the Secretary of Labor to extend the deadline for up to 30 days in extenuating circumstances, section 502 is intended to provide the Secretary with a degree of flexibility in order to reduce the likelihood that such concerns would arise.

Section 503: Conforming amendments

Section 503 makes several technical amendments to conform the new Subchapter D with provisions in the current TAA statute, and to clarify that no worker may receive assistance relating to the same layoff under both the current TAA program and the new program.

Section 504: Authorization of appropriations

Section 504 authorizes appropriations to the Department of Labor, for fiscal years 1994 through 1998, of such sums as may be necessary to carry out the new Subchapter D.

Section 505: Termination of transition program

Section 505 provides that the new program is authorized through September 30, 1998 (the current expiration date of the TAA program), or until legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to that provided under the new Subchapter D becomes effective, whichever is earlier. If a worker is certified on or before the termination date as eligible to apply for assistance under the new program, that worker shall remain eligible beyond such date.

The Committee notes that the Administration has stated that it hopes to have a comprehensive worker adjustment assistance program in place by July 1, 1995. Section 505 ensures that the new program under Subchapter D will remain in effect until that program is established and, should that not occur, through the end of fiscal year 1998.

Section 506: Effective date

Section 506(a) provides that the amendments made by sections 501 through 505 shall take effect on the date that the NAFTA enters into force for the United States.

Section 506(b) defines the workers who are covered by the new program. Workers can be certified as eligible for the benefits of the new program if they are laid off beginning on the date that the NAFTA enters into force. In addition, section 506(b)(2) provides a "reachback" for workers who lose their jobs between the date of enactment of this bill and the date of the NAFTA's entry into force; those workers also shall be eligible to receive the benefits of the new program. This ensures that if layoffs due to the NAFTA occur in the period between enactment of the bill and entry into force, the affected workers will be eligible for the benefits provided under Subchapter D.

Section 507: Treatment of self-employment assistance programs

Section 507 gives States the authority to establish self-employment assistance programs as part of the State unemployment compensation system. It allows States to pay a self-employment allowance in lieu of unemployment compensation to help unemployed workers while they are establishing businesses and becoming self-employed. The objective is to help expedite the transition of dislocated workers back into the work force.

Individuals are eligible for self-employment allowances if they are identified by a State worker profiling system as those who are likely to exhaust their regular 26 weeks of unemployment compensation; are participating in self-employment assistance activities, including entrepreneurial training, business counseling, and technical assistance; and are actively engaged on a full-time basis in activities relating to the establishment of a business and becoming self-employed.

The allowance payable to individuals who participate in a self-employment program is payable in the same amount, at the same interval, on the same terms, and subject to the same conditions as regular unemployment compensation under the State law, except that State requirements relating to availability for work, active search for work, and refusal to accept work are not applicable, and State requirements relating to disqualifying income are not applicable to income earned from self-employment.

The aggregate number of individuals receiving a self-employment allowance may not at any time exceed five percent of the number of individuals receiving regular unemployment compensation under the State law at such time. In addition, the program may not result in any cost to the Unemployment Trust Fund in excess of the cost that would be incurred by the State if the State had not participated in the self-employment program.

The authority for such programs will terminate five years after the NAFTA's enactment. Any State operating a self-employment program must report annually to the Secretary of Labor on the number of participants in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, and other information requested by the Secretary. The Secretary is required to report to Congress within four years of enactment of this bill on the operation of the program nationwide.

The Committee notes that, as indicated in the Statement of Administrative Action, providing States the authority to establish and operate these self-employment programs would benefit workers who may be dislocated as a result of the NAFTA. The traditional unemployment compensation system is designed mainly to provide income support for workers who are laid off temporarily or who expect to be unemployed for only a short period. Some workers, however, may lose their jobs permanently as a result of the NAFTA and will need additional tools—beyond basic income maintenance—in order to reenter the workforce. For some of these workers, access to a self-employment program may afford that opportunity.

SUBTITLE B—PROVISIONS RELATING TO PERFORMANCE UNDER THE AGREEMENT

Section 511: Discriminatory taxes

Section 511 expresses the sense of the Congress that discriminatory enforcement of sales or other taxes by a State, province, or other governmental entity of a NAFTA country, so as to afford protection to domestic production or domestic services providers, is in violation of the NAFTA. When this adversely affects U.S. firms, the USTR should pursue all appropriate remedies to obtain removal of such discriminatory enforcement.

This provision reflects the Committee's concern about an 11 percent sales tax imposed by the Province of New Brunswick, which Canadian Customs began collecting at the Maine-New Brunswick border on July 1,

1993, on certain goods including alcoholic beverages and tobacco products. This tax, imposed on purchases made in the United States but not on those made in other Canadian provinces, is the subject of formal USTR consultations with the Government of Canada.

Relationship between tax treaties and NAFTA.—Paragraph 2 of Article 2103 (Taxation) states that a tax convention, defined as a convention for the avoidance of double taxation or other international taxation agreement or arrangement, shall prevail to the extent of any inconsistency with NAFTA. The Committee understands that, in the case of parallel rights and obligations under a tax convention and NAFTA, only the tax convention's procedural provisions with respect to such rights and obligations shall be used and, thus, the tax convention, subject to certain provisions and understandings described below, will prevail.

As provided in paragraph 3, there are two exceptions to the primacy of a right under a tax convention or agreement: Article 301 (Market Access—National Treatment) and such other provisions as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT; and Article 314 (Market Access—Export Taxes) and Article 604 (Energy—Export Taxes) shall apply to taxation measures. In addition, paragraph 6 of Article 2103 provides that Article 1110 (Expropriation and Compensation) shall apply to taxation measures subject to certain procedural rules.

The Committee understands that, with respect to rights and obligations not subject to a tax convention, those rights and obligations may be subject to NAFTA to the extent provided for in Article 2103. For example, the provisions of a tax convention requiring nondiscriminatory treatment may not address certain aspects of discrimination against foreign service providers resulting from a Party's grant of tax relief or reduction in income tax to consumers of that service. To the extent that such discrimination is not addressed in a tax convention, such discrimination may be subject to the provisions of NAFTA to the extent provided for in paragraph 4, which imposes certain national treatment and MFN requirements on taxation measures in certain cases.

Similarly, none of the provisions of tax conventions between Canada and the other NAFTA parties deal with taxes imposed by states, provinces, or local authorities. Thus under a tax convention between Canada and another NAFTA party, a property tax imposed by a province of Canada or a state of the United States of America or of Mexico would be subject to the national treatment obligation under Chapter 11 of NAFTA (Investment) if the tax was neither permitted under a "grandfather clause" nor allowed as an "equitable and effective imposition or collection of taxes" under paragraph 4(g) of Article 2103.

The Committee understands that rights or obligations in respect of a tax must be addressed by the terms of the tax convention if the tax convention is to prevail over NAFTA in accordance with paragraph 2. Examples of such provisions include business profits, dividend, interest, royalty, capital gains and other income provisions; provisions concerning dependent or independent services; and nondiscriminatory treatment provisions. Other examples are the provisions in present or proposed U.S. tax conventions with the other NAFTA Parties that allow a Party to tax its citizens and residents. A further example is a provision in the proposed U.S. tax convention with Mexico limiting the benefits of the convention to qualified residents of the treaty parties. Under such a limitation on benefits provision, for example, the right of a party to a tax convention to impose tax on a royalty arising in that party and paid to a resident of the other party is addressed by the convention and therefore is not subject to NAFTA, even in a case in which the resident of the other party is not entitled to the benefits of the convention under a limitation on benefits provision. In addition, pursuant to the provisions of the U.S. tax conventions with the other NAFTA Parties, either party to the tax convention is permitted to impose a branch profits tax. Similarly, the nondiscrimination provisions of Canada's tax conventions with the other NAFTA Parties state that corporations controlled by residents of the other party to the tax convention will receive treatment no less favorable than corporations controlled by residents of a third party; thus, either party to those tax conventions may implement special measures with respect to taxation or any requirement connected thereto applicable to corporations controlled by its own residents.

Under the terms of tax conventions between NAFTA countries, the competent authorities of the Parties are to resolve by mutual agreement any difficulties or uncertainty with respect to the interpretation or application of the tax conventions. Therefore, the Committee understands that the competent authorities designated by the terms of the tax conventions shall determine whether the tax convention is to prevail over NAFTA in accordance with paragraph 2.

The Committee intends that the competent authorities shall consult and determine whether the tax convention prevails in accordance with paragraph 2. With regard to taxes on income, capital gains or taxable capital of corporations, taxes on estates, inheritances, gifts and generation-skipping transfers and the asset tax under the Asset Tax Law ("Ley del Impuesto al Activo") of Mexico listed in paragraph 1 of Annex 2103.4 (other than measures subject to Article 2103(3)), the Committee understands that procedures may be initiated under NAFTA Article 2007 only if the consulting competent authorities agree that, with respect to the measure, the tax convention does not prevail over the NAFTA in accordance with paragraph 2 of Article 2103. With regard to other taxes, if, within three months after the issue of whether the tax convention prevails is brought to the attention of the competent authorities, the consulting competent authorities do not agree to consider the issue or, having agreed to consider it, fail to agree within six additional months whether the tax convention prevails over NAFTA, the Committee anticipates that procedures may be instituted under NAFTA Article 2007. The Committee understands that the time periods set out above may be altered in any particular case by mutual agreement of the consulting competent authorities.

National treatment with respect to cross-border trade in services, and financial services.—Subject to certain exceptions, Article 2103 provides that Article 1202 (Cross-Border Trade In Services—National Treatment) and Article 1405 (Financial Services—National Treatment) apply to taxation measures on income, capital gains or the taxable capital of corporations, and to the asset tax under the Asset Tax Law of Mexico, that relate to the purchase or consumption of particular services. With regard to Article 1405, the Committee wishes to clarify that it intends only the national treatment requirements of paragraph 3 of Article 1405 (relating to the treatment of cross-border financial service provisions of another Party) to apply to such taxation measures.

One exception to the application of these national treatment requirements to taxation measures concerns any new taxation measure aimed at ensuring the equitable and effective imposition or collection of taxes and that does not arbitrarily discriminate between persons, goods or services of the parties or arbitrarily nullify or impair benefits accorded those Articles, in the sense of Annex 2004. The Committee understands that measures which may be adopted by a Party that are directed at tax avoidance or abuse with respect to taxes described above levied by that Party will be considered to be taxation measures imposed in accordance with the exception described above. These measures include, for example, provisions relating to the proper characterization of payments between related parties and provisions for the determination of income and expenses in transactions between related parties. Further, in accordance with the exception described above, the Committee understands that a Party may condition the receipt, or continued receipt, of an advantage relating the contributions to, or income of, pension trusts or pension plans to a requirement that said Party maintain continuous jurisdiction over the pension trust or pension plan.

Further, the Committee understands that the requirements of national treatment described above shall not be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular services on requirements to provide the service in its territory.

Section 512: Review of the operation and effects of the NAFTA

Section 512 requires the President, no later than July 1, 1997, to submit to the Congress a comprehensive study of the NAFTA's operation and effects. The study shall assess the extent of economic effects from the NAFTA, including on U.S. Gross National Product, trade and current account balances, and employment, as well as on the industries (including agriculture) that have experienced significant increases in either exports or imports as a result of the NAFTA. It shall also examine the NAFTA's impact on investment in U.S. production, including the extent to which such investment has been redirected to Mexico as a result of the NAFTA. Finally, it shall examine the extent to which the NAFTA has contributed to improvements in Mexican wages and working conditions, Mexican enforcement of labor and environmental laws, and the reduction in pollution along the U.S.-Mexico border.

The study shall attempt to distinguish between the NAFTA's effects and events that likely would have occurred without the NAFTA, and shall evaluate the effects relative to aggregate economic changes and the effects of factors such as international competition, reduced defense spending, the shift from "traditional manufacturing" to other economic activity, and the federal debt burden. This is intended to segregate the effects of the NAFTA on U.S. growth, trade, investment, employment, and productivity from other global and national economic factors.

Section 513: Actions affecting U.S. cultural industries

Article 2106 of the NAFTA, which carries forward Article 2005 of the CFTA, makes clear that should Canada take measures to

discriminate against or restrict market access for U.S. "cultural industries" (including motion pictures, television, sound recordings, and print publications), the United States retains the right to respond aggressively with measures of "equivalent commercial effect."

Section 513 amends the Trade Act of 1974 to add a new section 182(f) to that statute. It provides that by no later than 30 days after submission to Congress of the annual National Trade Estimates report, USTR shall identify any act, policy, or practice of Canada adopted or expanded after December 17, 1992 affecting cultural industries (as defined in the provision), and which is actionable under Article 2106 of the NAFTA. Any act, policy, or practice so identified should be treated, for purposes of section 301, as the basis for Canada's identification under the "Special 301" law (section 182 of the Trade Act of 1974, as added by the Omnibus Trade and Competitiveness Act of 1988) as a "priority foreign country"—unless the United States has already taken action under Article 2106 in response to it. In determining whether to make such an identification, USTR shall consult with and take into account the views of the relevant U.S. industries, appropriate advisory committees, and appropriate Federal Government officials.

The Committee has had longstanding concerns about the practices of other countries affecting U.S. cultural industries, and about Canada's ability to exempt its cultural industries from coverage under the CFTA. Section 513 confirms that the United States is prepared to respond under Article 2106 to Canadian actions affecting these important U.S. industries. It also reflects the view of the Committee that Article 2106 of the NAFTA neither enlarges nor diminishes the rights and obligations of the United States and Canada under the CFTA, and that, consistent with the NAFTA, measures of "equivalent commercial effect" may be taken under U.S. trade laws (including both the new section 182(f) and section 301 of the Trade Act of 1974) should Canada act under Article 2106. Such measures could include those in areas covered by the NAFTA—such as services, intellectual property, investment, government procurement, and rules of origin—that were not covered by provisions of the CFTA.

Section 514: Report on impact of NAFTA on motor vehicle exports to Mexico

Section 514 requires USTR to report annually, for five years, on the effectiveness of the NAFTA's automotive trade provisions in expanding exports of U.S. motor vehicles and motor vehicle parts to Mexico.

Section 514(a) sets forth the findings of the Congress that automotive trade is one of the most restricted areas of trade between the United States and Mexico; the NAFTA's elimination over 10 years of Mexican barriers to such trade should increase substantially U.S. automotive exports; and that this expectation of the NAFTA's effects is consistent with recent estimates by the Department of Commerce (concerning the value of additional exports of vehicles and parts) and the U.S. auto industry (concerning the volume of additional vehicle exports).

Section 514(b) requires the USTR, beginning July 1, 1995 and annually thereafter through July 1999, to report to the Committees on Finance and Ways and Means on the effectiveness of the NAFTA's automotive trade provisions. These annual reports shall include information on current bilateral automotive trade levels and patterns; remaining barriers; the amount U.S. exports to Mexico have increased over the previous year; whether such increases meet the anticipated levels of new exports; and, if not, what actions the USTR is prepared to take (including, but not limited to, possible future negotiations with Mexico for the purpose of modifying the automotive provisions in the NAFTA) to realize the expected benefits.

The Committee anticipates that these reports will enable it to better evaluate whether the NAFTA, by gradually eliminating the significant current Mexican trade and investment barriers in the automotive sector, creates the benefits for U.S. motor vehicle and motor vehicle parts producers that both the Administration and the domestic industry have stated they expect.

Section 515: Center for the Study of Western Hemispheric Trade

Section 515 directs the Commissioner of Customs, after consultation with appropriate officials in Texas, to make grants to an institution (or a consortium of institutions) to assist in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade in Texas. It sets forth selection criteria; identifies the Center's programs and activities; requires an annual report by the Commissioner to the Committees on Finance and Ways and Means on operations of the Center; and authorizes appropriations of $10 million for fiscal year 1994 and such sums as may be necessary in the three succeeding fiscal years. The Center's activities will include examining the NAFTA's effects on Western Hemisphere economies, and the negotiation of future trade agreements (including possible accessions to the NAFTA).

Section 516: Effective date

Sections 511 through 514 shall take effect on the date the NAFTA enters into force for the United States. Section 515 shall take effect on the date of enactment of the implementing bill.

SUBTITLE C—FUNDING

Section 521: Fees for certain customs services

Section 521 amends section 13031 of the COBRA to increase temporarily from $5.00 to $6.50 Customs user fees charged on passengers arriving in the United States from abroad on commercial vessels or aircraft. Section 521 also temporarily lifts the current exemption for passengers arriving from Mexico, Canada, Caribbean nations, and U.S. territories (other than Puerto Rico). Both changes are effective from the date of entry into force of the NAFTA through September 30, 1997. These increased user fee revenues will be dedicated, subject to appropriation, only to cover the costs of Customs inspections services that are not covered by the current user fee.

Finally, section 521 extends the Customs passenger processing and conveyance fees and the Customs merchandise processing fees, currently set to expire on September 30, 1998, through September 30, 2003.

Section 522: Authority to disclose return information to the Customs Service

Section 522 amends section 6103 of the Internal Revenue Code, which prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Code. Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). In addition, no tax information may be furnished by the Internal Revenue Service to another agency unless the other agency establishes procedures satisfactory to the Internal Revenue Service for safeguarding the tax information it receives (sec. 6103(p)).

Under present law, the Customs Service, an agency within the Department of the Treasury, does not have access to tax information from the Internal Revenue Service for use in its civil investigations. The Customs Service may demand documentation from an importer to support the claimed value and has access to the importer's books and records. For fulfillment of the documentation requirement, the Customs Service may ask importers to disclose tax information voluntarily.

Under present law, importers subject to U.S. tax may not claim a transfer price for U.S. income tax purposes that is higher than would be consistent with the value they claim for customs purposes (sec. 1059A).

The Customs Service annually collects approximately $20 billion in duties, taxes, and fees from importers and international travelers. In almost all cases, the amount owed to the Customs Service is a percentage of the value of imported goods. While importers must disclose to the Customs Service the value of imported goods at the time the goods enter the United States, it is the Customs Service's responsibility to determine whether these claimed values are correct. The Customs Service currently conducts approximately 200 major import audits annually. In some cases, importers have voluntarily provided tax information to the Customs Service. The Customs Service, however, receives no voluntary tax information in about three-fourths of its 200 annual audits.

Section 522 permits the Secretary of the Treasury (or his delegate), upon written request from the Commissioner of Customs, to disclose return information solely for the purpose of, and only to the extent necessary in, (1) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930, or (2) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits. Disclosure would be made to officers and employees of the Department of the Treasury. Disclosure of return information would be permitted with respect to taxes imposed by Chapters 1 and 6. Accordingly, the provision generally would authorize the Secretary to disclose to the Customs Service, pursuant to regulations, those items of return information relevant and necessary to ascertain the correctness of declared values, and generally would allow the Customs Service to use this information in its audits of reported values and in certain actions resulting from such audits.

The bill contemplates neither disclosures of return information to the extent such disclosures would be inconsistent with a treaty or executive agreement to which the United States is a party nor disclosures of Advance Pricing Agreements (APA) (including any related information submitted or generated (except otherwise disclosable return information)). Under the APA program, companies and the Internal Revenue Service negotiate a pricing methodology for transactions between related entities. The effectiveness of the APA program relies on voluntary disclosure of sensitive information to the Internal Revenue Service; accordingly, information submitted or generated in the APA negotiating process should remain confidential.

Section 522 is effective on the date the NAFTA enters into force with respect to the

United States. Not later than 90 days after the date of enactment, the Secretary of the Treasury or his delegate must issue temporary regulations to carry out this provision.

Section 523: Use of electronic fund transfer system for collection of certain taxes

Employers presently are required to withhold income taxes and FICA taxes from wages paid to their employees. Employers also are liable for their portion of FICA taxes, excise taxes, and estimated payments of their corporate income tax liability. At present, they must deposit these taxes in a government depository (generally, a commercial bank or savings institution) within a period of time specified in Treasury regulations. Each deposit must be accompanied by a Federal tax deposit ("FTD") coupon, which supplies such information as the taxpayer's name, identification number, tax period, and type of tax. Depositories process the FTD coupon information and forward it to the IRS. Though taxpayers' accounts are debited for the deposited taxes on the date deposited, the amounts are generally not credited to the account of the Treasury until the following day.

The present FTD coupon system and use of Government depositories is paperwork-intensive. Phasing in a new electronic fund transfer system will significantly reduce paperwork and will result in greater accuracy. Technological advances in the electronic fund transfer process will permit businesses to utilize the electronic fund transfer system without needing to purchase new computers or equipment. Electronic fund transfers already occur throughout the economy and account for 55 percent of payments made to social security recipients and 84 percent of the Federal payroll. Most businesses currently utilize this system for some of their payments. Use of an electronic fund transfer system for the collection of tax will promote accuracy and efficiency in processing, and consequently, is expected to result in significant cost savings to the Government. Taxpayers will benefit from increased accuracy, reduction in paperwork burden, and availability of a user-friendly tax collection system.

Section 523 requires the development and implementation of a new system that uses electronic fund transfer ("EFT") to remit certain taxes and convey FTD coupon information directly to the Treasury. The new system must be designed by the Treasury to operate in such a manner as to ensure that these taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the FTD system. The use of the EFT system thus would eliminate the paperwork burden inherent in the paper-based FTD system, the one-day delay in crediting tax funds to the Treasury, and the requirement that depositories function as FTD information processors. The taxes involved are: income taxes withheld from employees, the employer and employee portions of FICA taxes (both HI and OASDI), excise taxes, and corporate estimated tax payments.

To provide an orderly transition from the present-law FTD system to the new EFT system, the new system is phased in over a period of years. It is phased in by increasing each year the percentage of total taxes subject to the new EFT system. In the first year, three percent of the total taxes are required to be made by electronic fund transfer, increasing to 58.3 percent (60 percent for excise taxes and corporate estimated tax payments) for the fourth and fifth years, and increasing to 94 percent in the following years. The specific implementation method required to achieve the target percentages is to be set forth in Treasury regulations. It is anticipated that the phase-in will begin with the largest employers. It is also anticipated that small employers and other taxpayers for whom this system would prove unduly burdensome or impractical will be offered alternatives to or exemptions from the Treasury regulations.

Since one of the main goals of the provision is to reduce the paperwork burden on U.S. businesses, the Committee strongly encourages the Secretary to consider carefully the impact on small businesses of the anticipated regulations. The Committee intends that the regulations not create hardships for small businesses; the Committee generally intends that no small business would be required to purchase computers or would need access to any electronic equipment other than a touch-tone telephone. The provision grants the Secretary considerable flexibility in drafting the regulations, and the Committee urges the Secretary to take into account the specific needs of small employers, including possible exemptions for the very smallest businesses from the new electronic fund transfer system.

Section 523 takes effect on the date the NAFTA enters into force with respect to the United States. Not later than 210 days after the date of enactment, the Secretary of the Treasury (or his delegate) must issue temporary regulations to implement this provision. Those initial regulations must contain sufficient guidance to implement the provision for at least the first year it is effective. The Secretary may promulgate additional regulations at a later date to implement the provision for subsequent years. It is anticipated that any subsequent regulations will be issued sufficiently far in advance so as to give taxpayers adequate notice of their responsibilities under the provision.

TITLE VI—CUSTOMS MODERNIZATION

The Customs Service will bear the chief responsibility for implementing and enforcing the provisions of the NAFTA. In addition to implementing the tariff phase-out schedule for thousands of products, as set forth in Annex 302.2, the Customs Service will also be tasked with monitoring and verifying compliance with each of the product-specific rules of origin found in Annex 401, as well as compliance with the general rules of origin provided for in Chapter 4. NAFTA Article 303 imposes significant limitations on duty drawback to help achieve the NAFTA's goal of creating a more integrated North American market. The Customs Service will be the agency tasked with ensuring compliance with the duty drawback rules. The Customs Service will also be required to review and evaluate the Certificates of Origin that are required under Chapter 5 for goods for which NAFTA tariff preferences are sought. NAFTA Articles 502 and 504 set forth obligations relating to importations from NAFTA countries and exportations to NAFTA countries; again, the Customs Service is the agency charged with ensuring that these obligations are met. Under Article 509, the Customs Service will be required to provide advance rulings regarding compliance with the NAFTA rules of origin and the country of origin marking requirements found in Annex 311, as well as general eligibility for preferential treatment under Annex 302.2. And it will be the Customs Service that will assess the penalties required under Article 508 for noncompliance with the provisions of Chapters 3, 4, and 5 of NAFTA.

Apart from these provisions, the Customs Service will be required to ensure compliance with the NAFTA rules governing trade in agricultural goods (Section A of Chapter 7), as well as border compliance with U.S. laws and regulations implementing sanitary and phytosanitary measures. The increased responsibilities that the Customs Service will bear as a result of these specific NAFTA provisions must be evaluated in the context of increasing day-to-day responsibilities generally, due to the anticipated growth not only in U.S.-Mexican trade, but in global trade. The Customs Service will be required to carry out these additional responsibilities with fewer resources, as the agency implements measures to cut costs.

Title VI, the Customs Modernization Act, will significantly enhance the ability of the Customs Service to implement and enforce the NAFTA by increasing the agency's efficiency and productivity. Title VI accomplishes this goal by removing archaic statutory provisions requiring paper documentation and providing the full authority, under the National Customs Automation Program, for automated customs transactions. In return for facilitating the entry of merchandise through automation, Title VI contains a number of provisions to improve compliance with the customs laws, chiefly through penalties for failure to provide accurate information, including with respect to drawback claims, and for failure to keep the records that the Customs Service will require to audit or review entries of merchandise after they have been cleared and verify compliance with the NAFTA. Title VI also implements the concept of "informed compliance," which is premised on the belief that importers have a right to be informed about customs rules and regulations, as well as interpretive rulings, and to expect certainty that the Customs Service will not unilaterally change the rules without providing importers proper notice and an opportunity for comment. The Committee believes that these provisions, too, will improve compliance with the customs laws in general, as well as with the numerous rules and regulations that are specific to the NAFTA. Finally, Title VI includes a number of administrative modifications aimed at streamlining the agency's operations and improving the productivity of the Service. Taken together, the Committee strongly believes that the provisions of Title VI will assist the Customs Service in administering and enforcing the provisions of the NAFTA, as well as equipping the Service with the tools necessary to enforce effectively U.S. trade and customs laws in general, while facilitating imports from NAFTA countries and other trading partners.

Section 601: Reference

Section 601 provides that references in Subtitles A, B, or C to an amendment to, or repeal of, a part, section, subsection, or other provision, are references to a part, section, subsection, or other provision of the Tariff Act of 1930.

SUBTITLE A—IMPROVEMENTS IN CUSTOMS ENFORCEMENT

Section 611: Penalties for violations of arrival, reporting, entry, and clearance requirements

Section 436 of the Tariff Act of 1930 provides civil and criminal penalties for violating the provisions of that Act concerning the report of arrival of vessels, vehicles, and aircraft. These violations include the presentation of forged or altered documents. In order to bring uniformity to the penalty provisions that apply to the arrival, entry,

clearance, and manifest laws, section 611 amends the law to provide penalties for violation of the arrival, entry, clearance, and manifest requirements consistent with the provisions of section 331(a) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 100 Stat. 3207-81). Recognizing the use of electronic means of communications, section 611 also extends current penalties for presenting false or altered data or manifests to the electronic transmittal of such information.

Section 612: Failure to declare

Section 497 of the Tariff Act of 1930 provides for forfeiture and penalties for the failure to declare articles. If the article is a controlled substance, the current penalty is 1,000 percent of the value of the article. In order to ensure an adequate penalty for the importation of even a small amount of a controlled substance, section 612 establishes a minimum $500 penalty for the importation of controlled substances. Under this section, the penalty will be the greater of $500 or an amount equal to 1,000 percent of the value of the article. Section 612 also extends current penalties for failure to declare to electronic transmittal of entries and declarations.

Section 613: Customs testing laboratories; detention of merchandise

Section 499 of the Tariff Act of 1930 authorizes the Customs Service to conduct examinations and detain imported merchandise. Under the statute, not less than one package of every invoice and not less than one package of every 10 packages of merchandise shall be examined unless it is determined that a lesser number of packages can be examined. If there is evidence of fraud, the statute permits seizure of the merchandise. If there is no evidence of fraud, the value of an article omitted on the entry shall be added and the duties paid on that article. Current law also describes the circumstances under which the appraisement of merchandise shall *not* be held to be invalid.

Section 613 is intended to bring the law into conformity with existing Customs Service practice regarding the examination of merchandise by removing obsolete examination requirements. The bill requires the Customs Service to: (1) designate the packages or quantities of merchandise covered by an entry that are to be opened; and (2) order that such packages or quantities, and any additional packages or quantities that may be necessary, be sent to a designated examination site. This section requires the Customs Service to inspect a sufficient number of shipments and examine a sufficient number of entries to ensure compliance with the customs laws. Section 613 provides that any articles fraudulently omitted from an entry or invoice are subject to seizure, and that duties, fees and taxes must be paid on any articles that were omitted from an invoice or entry without fraudulent intent. It is the Committee's intent that, to ensure that adequate information is available to Customs Service officials responsible for conducting examinations, any required entry or manifest information that has been filed with the Customs Service, whether electronically or in paper form, be available to the appropriate official in the port of examination. It is the Committee's intent that the absence of any required entry or manifest information does not preclude or limit in any way the authority of the Customs Service to examine merchandise.

This section is also intended to codify Customs Service regulations and administrative guidelines concerning the use of commercial laboratories and gaugers. Section 613 authorizes the Customs Service to establish procedures for the accreditation of commercial laboratories and the approval of commercial gaugers, and for the suspension and revocation of accreditation or approvals, but such procedures will apply only when the determination of admissibility, quantity, or composition of imported merchandise is vested in or delegated to the Customs Service. Although the bill authorizes the Customs Service to impose a reasonable charge for accreditation or reaccreditation, it is the Committee's intent that these fees be equivalent to the costs incurred by the agency in performing such accreditation and reaccreditation. Section 613 provides that laboratories and gaugers that are currently accredited under Customs Service regulations will not be required to reapply, but will be subject to reaccreditation. This section also creates appeal rights for commercial laboratories and gaugers to challenge in the CIT any order or decision relating to their accreditation or reaccreditation or the assessment of a penalty within 60 days of its issuance. Section 613 provides that in the absence of Customs testing, the Customs Service shall accept quantity and analysis results from the laboratories and gaugers it accredits, but does not limit or preclude it or any other Federal agency from independently testing, analyzing, or quantifying any merchandise.

With respect to the suspension or revocation of accreditation, section 613 requires the Secretary of the Treasury to prescribe regulations regarding the conditions under which the Customs Service may suspend or revoke accreditation or impose monetary penalties. This section provides that, notwithstanding the provisions of section 592(d) of the Tariff Act of 1930, penalties may be assessed, but any monetary penalties may not exceed $100,000 and shall be in addition to recoveries of any actual or potential loss of revenue that may have resulted from an intentionally falsified report or analysis submitted by an accredited laboratory or gauger in collusion with the importer. It is the Committee's understanding that the Customs Service, within a reasonable period of time following enactment of this legislation, will publish guidelines governing penalties and any mitigating factors that it will consider in imposing any such penalties. The Committee expects that such guidelines will take into account the severity of the violation and the frequency of violations. As the statute provides, penalties are not to be assessed in cases of good faith differences of professional opinion.

This section also provides that testing procedures and methodologies will, unless developed by the Customs Service for enforcement purposes or proprietary to the holder of a copyright or patent, be made available upon request to laboratories, importers or their agents, and any others in the trade community expected to make use of such procedures or methodologies in connection with their import activities. It is the Committee's intent that the phrase "testing procedures and methodologies * * * developed by the Customs Service for enforcement purposes" be interpreted to mean only those circumstances where the revelation of such procedures or methodologies would be expected to materially aid an importer in potentially circumventing customs laws or regulations. Test results will be made available on request to the importer or its agents, unless they are proprietary to the holder of a copyright or patent or reveal information developed by the Customs Service for enforcement purposes. It is the Committee's intent that, where information relating to analytical methods and results can be provided, such information shall include data and other information supportive of laboratory results, in addition to the final laboratory report.

This section also sets forth procedures regarding the detention of merchandise by the Customs Service. These procedures compel the Customs Service to make a decision to release or detain merchandise within five working days after presentation of the merchandise for examination. The bill requires the agency to notify the importer of any detention within five working days. The Customs Service must provide copies of any Customs' testing results and a description of the analytical procedures and methodologies employed to any party having an interest in detained merchandise unless such disclosure reveals testing procedures and methodologies that are proprietary to the holder of a patent or copyright or are developed by the Customs Service for enforcement purposes.

Section 613 provides for expedited administrative and judicial review of detentions. Under this provision, the failure to make an admissibility decision concerning detained merchandise within 30 days after the merchandise has been presented for examination will qualify as a decision to exclude for purposes of the protest law (section 514 of the Tariff Act of 1930). If the protest is denied, the challenging party may institute suit in the CIT. During judicial review of a detention, the Customs Service has, notwithstanding 28 U.S.C. 2639, the burden of proof in demonstrating that it has good cause for not reaching an admissibility decision. However, the burden remains with the complainant, in accordance with 28 U.S.C. 2639, if a suit is commenced after a decision on admissibility has been reached. If the CIT determines that the Customs Service has not met its burden of showing good cause for not reaching an admissibility decision, it shall order the appropriate relief, which may include an order to release the merchandise. Once an action has commenced in the CIT, the Customs Service shall immediately notify the Court if a decision to release, exclude, or seize has been reached.

With respect to the "good cause" burden placed on the Customs Service relating to the admissibility decision, it is the Committee's intent that this burden may be satisfied by a showing that another Federal agency with jurisdiction over an admissibility decision has not yet reached the required determination.

The Committee understands that the Customs Service frequently detains merchandise on behalf of other agencies, including the Food and Drug Administration and the Department of Agriculture, and is not directly involved in the activities that result in an admissibility decision. The procedure provided in this section for recourse to the CIT is intended to apply only to admissibility determinations for which the Customs Service is responsible. The bill is not intended to change any existing procedures or relationships between the Customs Service and any other Federal agency.

Section 614: Recordkeeping

Section 508 of the Tariff Act of 1930 provides that any owner, importer, consignee, or agent must make, keep and render for examination and inspection records pertaining to any importation. Section 508(c) provides that records be maintained for a period not to exceed five years from the date of entry. Section 508(e) states that any person who fails to retain records of exports to Canada (as required under subsection (b)) shall be liable to a civil penalty not to exceed $10,000.

Section 614 imposes the recordkeeping requirements on parties whose activities require filing an entry or declaration, parties transporting or storing merchandise carried or held under bond, parties who file drawback claims, and parties who cause an importation or the transportation or storage of merchandise held under bond. This section also provides that information and data maintained in the form of electronically generated or machine readable data are "records" for purposes of the statute's recordkeeping requirements. Finally, section 614 provides that records pertaining to drawback claims shall be kept for three years from the date the claim is paid; all other records required to be kept by this section, including those pertaining to exportations to Canada, shall be retained for five years from the date of importation or exportation (to Canada), as appropriate. Section 205 of the implementing bill makes further changes to section 508 of the Tariff Act of 1930 to make the recordkeeping requirements applicable to exportations to NAFTA countries.

The Committee's amendments are intended to clarify recordkeeping requirements for the importing community, close existing loopholes and provide statutory recognition of electronically transmitted records. The Committee intends that the recordkeeping requirements and the examination authority of the Customs Service shall apply only to those records specifically identified in the statute.

Section 615: Examination of books and witnesses

Section 509(a)(1) of the Tariff Act of 1930 provides authority for the examination of records and witnesses. Section 509(a)(2) provides the authority to summon: an importer, or officer, employee, or agent of the importer; any person having possession, custody, or care of related records; or any other person; and to require the production of the records. Section 1509(c) defines the terms "records," "summons," and "third-party recordkeeper," and sets forth special procedures for third-party summonses.

Section 615 of this bill amends section 509(a) by providing that records maintained in the form of electronically generated or machine readable data fall within the purview of the statute, and that records required for the entry of merchandise, whether or not the Customs Service waived their presentation at entry, shall be produced for Service examination within a reasonable time after demand for their production, taking into account the number, type, and age of the item demanded. This section also requires that the Customs Service identify and publish in the "Customs Bulletin" a list of the records that are required for the entry of merchandise. The Committee intends that the list be published as soon as possible after the enactment of this legislation. Such records include, but are not limited to, commercial invoices, packing lists, certificates of origin, Form A, declarations of a foreign manufacturer, and any specific documents or other agency forms required pursuant to regulation for the admissibility into the United States of particular merchandise. The Committee intends that the Customs Service publish regulations in connection with this requirement at a later date. Once this list has been made public and importers have had an opportunity to familiarize themselves with the contents, the Committee expects that the person on whom a demand is made for the production of any of the records identified in the statute will furnish them within the "reasonable time" standard stipulated in the law. Failure to comply with a demand for the production of records required for the entry of merchandise may subject the noncomplying party to an administrative penalty. The Committee believes that the statute is relatively clear on how such factors as the number, type, and age of the items demanded will affect the obligation to produce. For example, a single request for a one-page document associated with a six-month-old entry should be produced within a matter of days, whereas the production of 50 commercial invoices relating to 50 entries that were filed two years before the documents were requested will take longer to produce—as long as two to four weeks, depending on whether the records had to be retrieved from storage and the method of storage involved. The Committee believes that the Customs Service and the importing community should be able to develop production schedules that do not adversely affect the day-to-day operations of the business while permitting the agency to verify in a timely manner the accuracy of information relating to import transactions.

This section also establishes procedures for conducting regulatory audits. These procedures require advance notification, entry and closing conferences, and preparation of a written audit report within 90 days following the closing conference. Section 615 requires that a copy of the audit report, subject to any applicable exemption from disclosure provided in the Freedom of Information Act (5 U.S.C. 552), be sent to the audited party within 30 days of completion, unless a formal investigation has been commenced. It is the Committee's intention that, in an era of "informed compliance," the Customs Service will make expanded use of its Regulatory Audit program. At the same time, the safeguards included in the implementing bill should enhance the value of the regulatory audit program in ensuring compliance with applicable laws and regulations. The bill makes clear that the Customs Service will not be required to hold a closing conference or complete and furnish a written audit report if a formal investigation is commenced. The Committee urges the Customs Service, however, to provide notice of the opening of a formal investigation as soon as possible, particularly where there is sufficient cause to believe that any required records would not be rendered unavailable or destroyed.

The Committee intends that the written audit reports will provide sufficient information and be of such quality as to further the "informed compliance" goals of this bill. The Committee further intends that any exemptions under the Freedom of Information Act be used judiciously and in a manner consistent with the "informed compliance" objective. If a Customs Service auditor believes, during a routine audit, that recordkeeping deficiencies exist, the Committee expects the auditor to point out any such deficiencies to the audited party. Where matters are more properly characterized as involving tariff classifications, valuation, or interpretations of law, the Committee expects such matters will be brought to the attention of the Customs Service official with the appropriate expertise.

Section 615 also establishes a new "Recordkeeping Compliance Program." The Customs Service shall establish this program, on a voluntary basis, after consulting with the importing community. Recordkeepers who are certified by the Customs Service may participate in the program or establish an alternative program suited to their and the Service's particular needs, if they can show, among other things, that they comprehend the legal recordkeeping requirements, have adopted procedures for explaining recordkeeping requirements to employees, have adopted procedures for the preparation, maintenance and production of required records, have designated an individual or individuals to be responsible for compliance with the recordkeeping program, have adopted procedures approved by the Customs Service for the maintenance of original records or alternative records, and have adopted procedures for notifying the Customs Service of variances to, or violations of, the recordkeeping compliance program, and for taking corrective action when notified by the Customs Service of violations or problems regarding the program. The Customs Service shall take into account the size and nature and volume of imports of an importing business when deciding to certify its program.

This section also provides for administrative penalties for the failure to comply with a lawful demand for records which are required for the entry of merchandise. The Committee believes that administrative penalties are warranted because, under current law, the Customs Service has no administrative recourse other than resorting to a summons when requests for records are ignored. If the recordkeeper ignores a summons, the Customs Service has no recourse but to go to court. The delay, burden and expense associated with enforcing a summons has meant that such actions have been rare. The Committee believes that administrative penalties will provide an effective mechanism for enforcing the recordkeeping requirements of the Customs Service. The Committee intends, however, that the availability of an administrative penalty shall not reduce or limit in any way the authority of the Customs Service to issue summonses. Further, it is the Committee's firm intention that only those records that are required for the entry of merchandise should be within the purview of the administrative penalty provided by this section. The Committee believes that these penalties will allow the Customs Service to reduce the paperwork demands on an importer because the agency can waive the production of the records at entry while retaining authority to demand their production at a later time.

Under this section, the imposition of a penalty for failure to comply is not mandatory, thus giving the Customs Service the discretion to decide whether a civil penalty is warranted. Where an importer has adopted a recordkeeping compliance program in consultation with the Customs Service, a penalty may be inappropriate. Specifically, recordkeepers who are certified by the Customs Service for participation in the recordkeeping compliance program and are in general compliance with the program, shall, in the absence of willfulness or repeated violations, be issued a written warning notice (in lieu of a penalty) if they fail to comply with a demand for the production of records required for the entry of merchandise. However, willfulness in failing to produce demanded records or repeated violations of law by a recordkeeper may result in the issuance of penalties and removal of certification for the recordkeeping compliance program. The Committee intends that the Customs Service should exercise tight control over the imposition of recordkeeping penalties and that, until the Customs Service gains experience in administering this penalty, no such penalty should be issued without prior Headquarters review and approval.

In addition, the bill makes clear that any penalty assessed by the Customs Service

may be remitted or mitigated under section 618 of the Tariff Act of 1930. In all cases, the amount of the penalty will depend on whether the failure to produce the records is due to willful conduct or negligence.

This section further provides that no penalty shall be issued if the demand for records is substantially complied with by the production of other evidence satisfactory to the Customs Service, if an act of God or other natural casualty or disaster prevents compliance with a lawful demand, or if demanded information was previously provided to and retained by the Customs Service.

Under the implementing bill, any penalty imposed under this section shall be in addition to any other penalty provided by law, except where the Customs Service assesses a penalty for a violation of section 592 of the Tariff Act of 1930 for a material omission of demanded information, or where the Customs Service takes disciplinary action against a customs broker under section 641 of the Tariff Act of 1930. With respect to customs brokers, the Committee notes that under section 509 of the Tariff Act of 1930 as amended herein, customs brokers can be considered recordkeepers, and subject, therefore, to disciplinary action under this section. However, the Committee notes further that the conduct of customs brokers is controlled by section 641 of the Tariff Act of 1930, which specifies penalties for violations of the law. For reasons of commercial necessity, brokers may act as importers of record in cases where the actual importer does not have an entry bond. Their status as "brokers" does not change because of this and failure to maintain the records specified in this section should not automatically subject them to the penalties set forth in paragraph (g) of this section. The Committee intends that the Customs Service shall apply section 641 of the Tariff Act of 1930 to brokers, including those who act as importers of record, unless there are exceptional circumstances. These occur when there is an egregious, flagrant or willful violation of the requirements of section 509 of the Tariff Act of 1930, or when there is a pattern or practice of abuse occurring over a sustained period of time in willful disregard of the recordkeeping requirements. The recordkeeping penalty assessed under section 641 for failure to comply with a demand for information shall follow the same principles as is the case under section 509. Each failure of a broker to comply with a demand under section 509 shall be actionable under section 641, and subject the broker to revocation, suspension or monetary penalties in lieu of a penalty under section 509.

Section 616: Judicial enforcement

Section 510 of the Tariff Act of 1930 provides that a district court may issue a compliance order to a person who refuses to obey a summons issued under section 509 of the Tariff Act of 1930. The failure to abide by such court order may be punished as a contempt of court. Section 616 grants district court judges the authority to assess a monetary penalty for the failure to abide by a court order for the production of records, in addition to holding a non-complying party in contempt of court.

Section 617: Review of protests

Section 515 of the Tariff Act of 1930 provides procedures for review of protests, administrative review and modifications of decisions, and requests for accelerated disposition of protests. This section amends section 515 to allow importers to request that the Commissioner of Customs review a decision denying an application for further review. Review of such a request will be based solely on the basis of the record before the Customs Service at the time the application for further review was denied.

This section also authorizes the Customs Service, on its own initiative or pursuant to a request by a protesting party, to void a protest denied contrary to proper instructions. Proper instructions are only those instructions that are issued by an appropriate Customs Service official having the necessary authority vested by law or the Customs Service to issue such instructions. The Committee expects that, where an application is made, or the Customs Service on its own initiative reviews a protest denied contrary to proper instructions, the Customs Service will decide in a timely manner whether to void the denial of the protest. Finally, this section provides that all administrative action pertaining to a protest or application for further review will terminate when an action is commenced in the CIT arising out of such protests or applications and that any administrative action taken subsequent to the commencement of an action shall be null and void.

Section 618: Repeal of provision relating to reliquidation on account of fraud

If the Customs Service determines that there is fraud in a case, it may, under section 521 of the Tariff Act of 1930, reliquidate the entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or reliquidation. Section 618 of this bill repeals section 521, which is no longer necessary since the Customs Service may use section 592(d) of the Tariff Act of 1930 to recover duties.

Section 619: Penalties relating to manifests

Section 584 of the Tariff Act of 1930 provides penalties for failure to produce a manifest and for manifest discrepancies; it also provides penalty procedures. Section 619 amends section 584 to reflect that manifests, notices, statements, and claims may be electronically transmitted.

Section 620: Unlawful unlading or transshipment

Section 586 of the Tariff Act of 1930 provides penalties for: unlading prior to the grant of permission; transshipment to any vessel for purpose of unlawful entry; and unlawful transshipment to any U.S. vessel. An unlading or transshipment because of accident, stress of weather, or other necessity may not be subject to a penalty. In order to close existing loopholes, section 620 of this bill, amends section 586 to cover hovering vessels and vessels receiving merchandise outside U.S. territorial waters.

Section 621: Penalties for fraud, gross negligence, and negligence; prior disclosure

Under section 592 of the Tariff Act of 1930, if merchandise is entered, introduced, or attempted to be entered or introduced by a false document, oral or written statement, or act, or omission which is material, and the result of fraud, gross negligence or negligence, the person(s) responsible may be liable for a civil monetary penalty. In certain cases, the merchandise may be seized. Following written notice concerning the violation, a pre-penalty response and/or petition for relief may be filed requesting mitigation in accordance with established guidelines.

Section 621 of the implementing bill amends section 592 by prohibiting the electronic transmittal to the Customs Service of false information or data, and authorizing the Customs Service to recover underpayment or non-payment of taxes and fees resulting from a violation of section 592. The Committee believes that, in order for "informed compliance" to work, it is essential that the importing community share with the Customs Service the responsibility to ensure that, at a minimum, "reasonable care" is used in discharging the importer's responsibilities. These include classifying and appraising the merchandise, furnishing sufficient information to permit the Customs Service to fix final classification and appraisal of merchandise, taking measures that will lead to and ensure the preparation of accurate documentation, and providing adequate and accurate pricing and financial information to permit the proper valuation of merchandise. In meeting the "reasonable care" standard, the Committee believes that an importer should consider utilizing one or more of the following aids for proper compliance: seeking guidance from the Customs Service through the pre-import or formal ruling program; consulting with a customs broker, a Customs consultant, or a public accountant or attorney; using in-house employees, such as counsel, a Customs administrator, or if valuation is an issue, a corporate controller, who have experience and knowledge of Customs laws, regulations, and procedures; and, when appropriate, obtaining analyses from accredited laboratories and gaugers for determining technical qualities of an imported product. Where an importer chooses to use an outside expert, the importer is responsible for providing the expert with full and complete information to allow the expert to make entry or to provide advice as to how to make entry. If the above steps are taken, the importer will be presumed to have acted with "reasonable care" in making entry. The following are two examples of how the reasonable care standard should be interpreted by the Customs Service: (1) the failure to follow a binding ruling is a lack of reasonable care; and (2) an honest, good faith professional disagreement as to the correct classification of a technical matter shall not be considered to be lack of reasonable care unless such disagreement has no reasonable basis (*e.g.*, snow skis are entered as water skis).

If an importer fails to use reasonable care in classifying and valuing the merchandise and presenting other entry data, the Customs Service may impose a penalty under the appropriate culpability levels of section 592 of the Tariff Act of 1930. The Committee notes that the Customs Service uses the following definitions for the various culpability levels in administering the present penalty guidelines and expects the Service to continue to use these definitions in the administration of the penalty provisions:

(1) Negligence.—A violation is determined to be negligent if it results from an act or acts (of commission or omission) done through either the failure to exercise the degree of reasonable care and competence expected from a person in the same circumstances in ascertaining the facts or in drawing inferences therefrom, in ascertaining the offender's obligations under the statute, or in communicating information so that it may be understood by the recipient. As a general rule, a violation is determined to be negligent if it results from the offender's failure to exercise reasonable care and competence to ensure that a statement made is correct.

(2) Gross negligence.—A violation is deemed to be grossly negligent if it results from an act or acts (of commission or omission) done

with actual knowledge of or wanton disregard for the relevant facts and with indifference to or disregard for the offender's obligations under the statute.

(3) Fraud.—A violation is determined to be fraudulent if the material false statement or act was committed (or omitted) knowingly (voluntarily and intentionally), with an intent to deceive, mislead, or convey a false impression, as established by clear and convincing evidence.

The Committee also notes the recent decision of the CIT in *United States v. Thorson Chemical Corp.*, Slip Op. 92-84 (May 28, 1992) in which Judge Carman stated, "While the statute itself does not define [the three degrees of culpability], the Court is guided by case law and Customs' own regulations."

Section 621 of the implementing bill also provides that the mere non-intentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct. The Committee has included this provision in order to address concerns expressed by industry representatives that this form of conduct not be held to constitute a pattern of negligent conduct. The Committee recognizes that, with increased reliance on electronic systems, it is entirely possible that an initial clerical error could be repeated numerous times. For example, where an entry level clerk or typist prepares documents using a model format as a guide, it is possible that an initial error may be repeated many times over. In such cases, multiple repetitions of an initial clerical error may not constitute a pattern of negligent conduct. The Committee urges the Customs Service to examine the nature of the data transcription at issue, and to take into consideration the element of time and the number of importations involved.

The Committee also recognizes that repetitive human errors may not, in some cases, constitute a pattern of negligence. The Committee expects that the Customs Service will make its determination based on the existence and operation of quality control procedures, the nature of the data transmission, the number of importations handled, and the amount of time involved in the action creating the error. The Committee intends, however, that a failure to use reasonable care as required by section 484 of the Tariff Act of 1930, where such failure results in repetitive errors, shall constitute a pattern of negligent conduct.

The Committee notes that the element of time may affect the determination in at least two instances. If a repetitive error goes undetected for more than six months, the Committee believes that the Customs Service should consider this a pattern of negligent conduct. For example, the Committee believes that the exercise of reasonable care should catch an error repeated in daily entries of merchandise. However, if there was but a single entry during that six-month period, the converse would be true. If the Customs Service discovers cases where there are repetitive clerical errors in multiple entries, and such errors have not previously been disclosed by the importer in its exercise of reasonable care, the Committee does not intend that the importer will be shielded from a finding of negligent conduct.

The implementing bill further amends section 592 by defining the commencement of a formal investigation, for purposes of prior disclosure, as being the date recorded in writing by the Customs Service when facts and circumstances were discovered or information received to believe a possibility of a violation of section 592 existed. The Committee believes that there should be a clearly defined and objective standard by which to measure the date when a formal investigation has commenced. That standard must lie in the creation of a formal document or electronic transmission that will serve as evidence, if required, of the formal opening of an investigation. The Committee expects that such document or transmission will be maintained by the Office of Enforcement or other central unit designated within the Customs Service.

If a Customs official has reasonable cause to believe that a violation of section 592 has occurred, that official shall record the salient facts and present them to the Office of Enforcement or other central unit. That office shall determine whether the facts merit the commencement of a formal investigation. The Committee expects that Customs Service officials will exercise particular care in recording essential facts (including but not limited to names, types of issues (*e.g.*, undervaluation and marking), date and time the case is opened, and nature of investigation); this requirement for careful recordkeeping by the Customs Service should allay the trade community's concerns that the benefits of prior disclosure will be denied in the absence of tangible evidence.

The Committee does not intend that the Customs Service disclose to the target of an investigation the fact that a formal investigation has opened. But if the agency determines that it is appropriate to issue a prepenalty notice under section 592(b)(1), a copy of the written document or electronic transmission should be included as an exhibit. With that one document, it should be clear whether the alleged violation stems from information previously disclosed by the disclosing party. The time of disclosure will also be defined. If the importer's disclosure of the circumstances of the violation precedes the opening of the formal investigation, the case should be treated as one involving prior disclosure. But if the disclosure did not precede the opening of the formal investigation, the disclosing party will be left with the burden of proving that disclosure of the violation was made without knowledge that a formal investigation had been commenced.

Section 622: Penalties for false drawback claims

Section 622 creates, as part of the Tariff Act of 1930, a new section 593A to establish penalty provisions for the false submission of drawback refund claims and to establish a "Drawback Compliance Program" similar to the "Recordkeeping Compliance Program" described above. The Customs Service would be required under the voluntary program to inform potential drawback claimants clearly about their rights and obligations. The Committee believes that the provision of penalties and the establishment of a drawback compliance program will promote informed compliance while balancing both trade facilitation and trade enforcement concerns.

The maximum statutory penalty for violations based on fraud would be three times the loss of revenue. For negligence, a drawback claimant qualifying for the "Compliance Program" would be issued a warning notice for an alleged first violation and then would be issued the following penalties on an escalating scale:

Second case: Not to exceed 20 percent of the loss of revenue;

Third case Not to exceed 50 percent of the loss of revenue; and

Fourth and Subsequent: Not to exceed 100 percent of the loss of revenue.

A drawback claimant who does not qualify for the Compliance Program would be subject to an initial penalty not to exceed 20 percent of the loss of revenue. For a second violation, the penalty would be not to exceed 50 percent of the loss of revenue, with the penalty for third and subsequent violations not to exceed 100 percent of the loss of revenue.

For purposes of determining possible penalties, repetitive violations would be subject to a timeframe of a "rolling" three-year period (similar to a traffic violation) after which the "clock" would start over.

This section is to become effective on or after operational implementation by the Customs Service of a nationwide drawback selectivity program.

Section 623: Interpretive rulings and decisions; public information

Currently under section 625 of the Tariff Act of 1930, within 120 days after issuing any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision), the Secretary of the Treasury is required to publish the decision in the "Customs Bulletin" or otherwise make it available for public inspection.

Section 623 of this bill reduces the time period for publication to 90 days. It further provides that adverse interpretive rulings may be appealed within the Customs Service, and requires that a ruling modifying or revoking an existing ruling be first published in the "Customs Bulletin" for notice and comment. The Secretary of the Treasury will give interested parties a 30-day period in which to submit comments. This section also requires the Customs Service to make available all information necessary for importers to comply with applicable laws and regulations. Any decision that limits the application of a court decision shall also be published for notice and comment in the "Customs Bulletin." It is the Committee's intent that the Customs Service will be deemed to have met its publication requirements under this section if it disseminates such information through the Customs Service electronic bulletin board if such information remains publicly available in an accessible, retrievable format.

Section 624: Seizure authority

Under section 595a(c) of the Tariff Act of 1930, any merchandise that is introduced or attempted to be introduced contrary to law (other than in violation of section 592 of the Tariff Act of 1930) may be seized and forfeited.

Section 624 of the implementing bill amends the seizure authority of the Customs Service to codify existing practice and clarify the circumstances under which merchandise may be seized and forfeited. Nothing in this section is intended to change existing procedures in effect between the Customs Service and other Federal agencies regarding the seizure, forfeiture or other disposition of merchandise. The Committee does not intend that this section change current law or Customs Service practice regarding parallel imports.

The section provides as follows: (1) merchandise that is stolen or smuggled or clandestinely imported, or that is contraband or a controlled substance, shall be seized and forfeited; (2) merchandise subject to a restriction or prohibition pertaining to health, safety, or conservation may be seized and forfeited if not in compliance with the restriction or prohibition; (3) merchandise which requires the authorization of a U.S. agency, but that is not accompanied by such, may be seized and forfeited; and (4) merchandise subject to copyright, trademark, trade

name, or trade dress protection, and merchandise that is intentionally falsely marked with the name of a country which is not the country of origin in violation of section 304 of the Tariff Act of 1930 or for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have marking violations may also be seized and forfeited.

In addition, this section provides that if merchandise is subject to quantitative restrictions requiring a permit and such document is not presented, the merchandise shall be detained unless the permit is counterfeit, in which case the merchandise shall be seized and forfeited. Also, if the merchandise is imported contrary to applicable laws governing the classification or appraisement of the merchandise and there are no issues concerning the admissibility of the merchandise, it may be seized only in accordance with section 592 of the Tariff Act of 1930.

SUBTITLE B—NATIONAL CUSTOMS AUTOMATION PROGRAM

Section 631: National customs automation program (NCAP)

This section is intended to give the Customs Service the direct statutory authority to implement the NCAP, which provides for full electronic processing of all Customs-related transactions. Section 631 defines the NCAP as an automated and electronic system for processing commercial importations and lists the existing and planned components of the program. The Committee understands that the list of planned components shall be expanded in the future as other components are initiated after the date of enactment. Participation in NCAP is voluntary, but the Customs Service will establish eligibility criteria for participation. Since NCAP is a single program encompassing all of the customs electronic processing procedures of the Customs Service, the Committee expects that filers will either use NCAP electronic procedures, or use current procedures for filing paper documents. It is the Committee's intention that nothing in this section shall preclude the current practice of filing paper documentation within a single district. The Committee intends, however, to encourage electronic filing whenever possible. The Committee expects that the Customs Service, in developing criteria for eligibility in NCAP, will qualify as broad a membership of the trade community as possible, including brokers, importers, express couriers, transportation companies, and foreign trade zone and sub-zone firms.

Section 631 identifies the goals of the NCAP as ensuring that all regulations and rulings administered or enforced by the Customs Service are administered or enforced in a manner that is uniform and consistent, minimally intrusive upon the normal flow of business activity, and ensures compliance with applicable laws and regulations.

This section requires the Customs Service to provide the Committees on Finance and Ways and Means with a number of reports relating to the implementation of the NCAP. The Committee will also ask the GAO to prepare an evaluation, as described below, of the remote entry filing component of the NCAP. The purpose of these reports is to provide the Committees with a comprehensive assessment of the progress achieved in implementing the NCAP and analyses of the effects the NCAP is having, or is expected to have, on the operations of the Customs Service, on the users of the program and on the trade community at large, including importers and small, medium-sized and large brokers.

First, the Customs Service must provide Congress an overall implementation plan for NCAP within 180 days of the enactment of this legislation. The overall implementation plan will include a general description of the NCAP, a brief description of each of the existing components of the program, and estimates regarding the stages on which planned components of the NCAP will be brought on line. In addition, the overall implementation plan will also include an analysis of the effects that the existing components of NCAP are having, and the effects the planned components are likely to have, on Customs Service occupations, operations, processes and systems, and on the trade community (including small, medium-sized and large brokers and importers) using, or likely to use, NCAP.

Second, for each planned NCAP component, including remote filing, the bill requires the Customs Service to prepare a separate implementation plan in consultation with the trade community, test the component, and transmit to Congress the implementation plan, testing results, and an evaluation report. The Committee intends that the Customs Service consult with all relevant parties, including small, medium-sized and large brokers, importers, express couriers, sureties, transportation companies, including air and sea carriers, the National Treasury Employees Union and foreign trade zone and sub-zone firms, as necessary, in developing the implementation plan for each of the components. The Committee expects that testing of all planned components, including remote filing, will be conducted under carefully delineated circumstances with objective measures of success or failure, a predetermined timeframe and a defined class of participants. And in preparing its evaluation report on each of the components, the Committee expects the Customs Service to solicit the views of all of the relevant parties, including but not limited to all of the parties with whom the Customs Service consulted in developing the implementation plan. The Committee expects these evaluation reports will include detailed information on the scope of the testing and the parameters under which any testing was conducted and an objective assessment of the results. The Committee expects the evaluation reports of each of the components to include summaries of the comments received by all relevant parties.

The implementation plan, the testing results and the evaluation report for each of the components will be transmitted to the Committees on Finance and Ways and Means.

Third, the GAO will also prepare an independent evaluation of the remote filing component of the program and transmit the report to the Committees on Finance and Ways and Means. In order to ensure that the GAO report and the Customs Service report will be available to the Committees at approximately the same time, the Committee expects the Customs Service to inform the Committee well in advance of the approximate date on which it expects to submit the implementation plan, testing results and evaluation of remote entry filing to the Committee so that the GAO may begin its evaluation in a timely manner.

In order to ensure that the Committee will have sufficient time to review the evaluation reports of the planned components, section 631 provides that the Customs Service may not implement the relevant program component on a permanent basis until 30 session days have elapsed after the submission of the relevant evaluation report. The Committee believes that it is necessary to establish a layover period during a time when Congress will be in session in order to provide Congress the opportunity to seek any necessary modifications to the program. However, the Committee intends that no further legislation is necessary before the Customs Service may implement the planned components of the program, and implementation may occur at any time after enactment as long as all of the requirements are met. The Committee intends that testing by the Customs Service of any planned NCAP component, including remote filing of paper documentation, shall not be limited by any provision in this section.

Fourth, the bill requires the Customs Service to develop a user satisfaction survey of parties participating in the program and evaluate the results of the survey every two years. Fifth, the Customs Service will also be required to submit a separate evaluation of the cargo selectivity component of the program. Sixth, beginning in fiscal year 1994 and annually thereafter through fiscal year 2000, the Customs Service will be required to transmit to the Committees on Finance and Ways and Means a written evaluation of all of the planned components of the program, with particular attention to remote entry filing. In preparing its reports, the Customs Service will be required to solicit public comments through the "Customs Bulletin," and shall consult with all relevant segments of the trade community, including small, medium-sized, and large brokers, importers, shippers and others.

Section 631 further provides that the Customs Service must publish a request for comments in the Customs Bulletin in order to solicit the views of the trade community concerning the implementation plan and evaluation of each of the planned components, and in preparing other required surveys, evaluations and reports. The Committee expects that the agency will also provide notice of the request for comments through other channels available to it, including electronic means. The Committee intends that the request for comments reach as broad an audience as possible.

This section establishes specific conditions for the remote location filing component of NCAP. If a filer qualifies and elects to file from a remote location, then the filer must present electronically specified core entry information on an entry-by-entry basis, including electronic entry of merchandise, electronic entry summary, automated invoice information (when required by the Customs Service) and electronic payment of duties, fees, and taxes. The Customs Service may expand this core entry list in the future by regulation as capabilities develop. If any of the above means for filing core entry information electronically are not used, then paper documentation shall be filed in the district designated for examination.

With respect to the core requirements, the Committee intends the following definitions to apply: electronic entry means electronic submission of Form 3461 or Form 3461 Alt. information; electronic entry summary means electronic submission of Form 7501 or Import Activity Summary Statement information; automated invoice information means use of Automated Invoice Interface, but only applies when required by the Customs Service; and electronic payment of duties, fees, and taxes means use of existing Automated Clearing House procedures.

To address concerns about remote location filing and about enforcement under the

NCAP, section 631 imposes several additional requirements relating to remote filing. First, this section mandates that the Customs Service may not permit any exemptions or waivers from the remote filing requirements. It also clarifies that participants eligible for remote location filing are limited to those who currently have the right to make entry under section 484(a)(2)(B) of the Tariff Act of 1930. Finally, section 631 of the implementing bill authorizes the Customs Service to deny participation in, or remove a participant from, remote filing should the agency have any concerns about enforcement.

After satisfying the core entry information requirements, filers must meet additional entry information filing requirements. These requirements will be published and periodically updated. Any additional entry information that must be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information, may be filed from a remote location only if certain conditions are met. If the Customs Service can accept the information electronically, then it shall be filed electronically.

If the Customs Service cannot accept the additional information electronically, the circumstances under which filers may file remotely are limited. In all cases where a document that is necessary for the release of the merchandise cannot be electronically accepted, the paper documentation must always be filed in the Customs district designated by the entry filer for purposes of examination of the merchandise by the Customs Service. Before January 1, 1999, all other types of additional paper documentation must be filed in the district designated for examination. After January 1, 1999, only those paper documents that are not necessary for the release of the merchandise may be filed at a remote location. These dates reflect the Committee's view that an additional two years beyond the dates proposed by the Administration are necessary to allow the trade community to adjust to remote filing. It is the Committee's intent that all documents necessary for the release of goods, including those documents required by other Federal agencies for release, which the Customs Service cannot accept electronically, be filed in the district designated for release and not remotely.

Under this section, the importer may file any information required by the Customs Service after entry summary in a remote location, whether using paper or electronic means. The Committee will request the GAO to conduct a comprehensive review of the remote entry filing component two years after that component is implemented on a permanent basis. The Committee intends that the GAO evaluate the implementation of the component, including the extent to which remote filing is used, the effect remote filing has had on the operations of the Customs Service and the distribution of its workload and employees, the costs and benefits of remote filing to importers, small, medium and large brokers, transportation companies and foreign trade zone and sub-zone companies, and other relevant parties, and the impact, if any, that remote filing has had on the ability of the Customs Service to enforce our trade, customs and drug laws.

The Committee believes that NCAP will enable the Customs Service to make more efficient use of its import specialist work force by channeling work to remote locations. However, the Committee does not intend that this bill prompt the movement of Customs Service personnel from one location to another to implement the goals of the program. The Committee has received assurances from the Commissioner of Customs that the Customs Service will *not* remove import specialist positions from the Customs districts as a result of remote filing. The Committee expects that the agency will continue to use the full complement of import specialists at the district level.

Section 632: Drawback and refunds

Section 313 of the Tariff Act of 1930 permits drawback (a refund or remission) of the duties paid on imported merchandise when articles manufactured or produced with the use of such imported merchandise are exported and in certain other circumstances. Section 632 of the implementing bill contains provisions intended to expand U.S. exports and facilitate the use of drawback by easing administrative burdens while ensuring improved compliance (through increased penalties and informed compliance provisions) with the laws and regulations governing drawback.

Under current law, if dutiable raw materials and substituted domestic or duty-free raw materials of the same kind and quality are used by one manufacturer to make new articles that are exported, those articles are deemed to have been made with the dutiable raw materials and duty is refunded. Section 632 permits drawback upon exportation or where merchandise has been destroyed under customs supervision, if such articles have not been used prior to exportation or destruction. This section also enacts current practice to permit drawback for the substitution of any materials, not just domestic or duty-free materials.

Current law provides that an importer whose foreign supplier failed to follow the importer's purchase specifications or samples is entitled to a duty refund if the importer returns the imported merchandise to the Customs Service within 90 days after release, provides sufficient evidence to show that the foreign supplier failed to follow the importer's specifications or sample, and then exports the merchandise. The implementing bill amends the rejected merchandise drawback provisions to extend the period for return to the Customs Service to three years, to allow destruction of the imported merchandise as an alternative to exportation, and to allow the importer and foreign supplier to agree that the imported merchandise was defective without reference to purchase specifications or samples. If the importer and foreign supplier could not agree that the merchandise was defective, the Customs Service would be required to make that determination. Under this section, imported merchandise could be kept in the United States for up to three years, and the importer could get a duty refund if it was shown that the merchandise did not conform to specifications or sample or was defective at the time of importation.

Current law also provides for "same condition" drawback whereby dutiable articles or substitute fungible articles, when exported or destroyed, are eligible for duty refund if the exported or destroyed articles were not used in the United States and are in the same condition as the dutiable articles when they were imported. Under a recent court decision (*B.F. Goodrich v. United States*, 794 F. Supp. 1148 (CIT 1992)), any person who possessed the exported articles and paid the duty on the imported merchandise may claim the duty refund. Section 632 renames the same condition drawback provision "Unused Merchandise Drawback," and amends the provision in several ways. The provision will allow exporters to claim drawback on imported merchandise, or other domestic or imported merchandise that is substituted for the imported merchandise, that is not used within the United States before exportation or destruction, while removing the requirement that the merchandise be in the same condition. This allows for the possibility that drawback may be claimed on exported or destroyed unused merchandise that has physically deteriorated. Consistent with the recent court decision in *Central Soya v. United States*, 761 F. Supp. 133 (CIT 1991), affirmed 953 Fed. 2nd 630 (CAFC 1992), the provision provides that exporters may endorse this right to importers or any intermediate party, when substitution is not involved. In light of the *Goodrich* case, for substitution under this provision, the Committee intends that, as a general rule, the possessor of the exported merchandise must have paid duties on the imported merchandise or have received from the person who imported and paid the duties on the imported merchandise a certificate of delivery for the imported merchandise, commercially interchangeable merchandise, or any combination thereof.

Section 632 also changes the standard for substitution under same condition or unused merchandise drawback from "fungible" to "commercially interchangeable." It is the Committee's intent that "commercial interchangeability" does *not* mean interchangeable in all situations. The Committee intends that, in determining whether merchandise is "commercially interchangeable," the Customs Service should evaluate the critical properties of the substituted merchandise, rather than basing its determination on subjective standards. The Committee intends that, in determining the commercial interchangeability of two articles, the Customs Service should consider the following criteria, among other factors: governmental and recognized industry standards, part numbers, tariff classification, and relative values. The Committee intends that the test be more stringently applied if the article was destroyed rather than exported. This section permits certain incidental operations with respect to the merchandise.

Section 632 also permits the electronic filing of drawback claims.

For finished petroleum derivatives, an amendment to the drawback statute by the Customs and Trade Act of 1990 (Public Law 101-382, section 484A) was intended to establish monthly accounting procedures for drawback payments on the covered crude petroleum and petroleum derivatives stored in common storage with other crude petroleum and petroleum derivatives of the same kind and quality. Because of the requirement that the crude petroleum and petroleum derivatives must be withdrawn for export from the common storage facility where they are stored, effective use of the provision has proven impracticable (because the covered petroleum products may be stored at numerous common storage facilities before reaching the common storage facility from which they are exported and because of the recordkeeping requirements necessary to trace the covered petroleum products to the common storage facility from which they are exported). Section 632 of the implementing bill amends the petroleum drawback provision to implement the intent of the Congress as set forth in the Customs and Trade Act of 1990.

Specifically, section 632 allows accounting for crude petroleum and petroleum derivatives on a quantitative basis. The crude petroleum or petroleum derivatives would have

to be exported: (1) within 180 days of the duty-paid entry of crude petroleum or petroleum derivatives of the same kind and quality; or (2) during the period of manufacture or within 180 days after the close of the manufacturing period for covered petroleum products manufactured under the drawback law. For purposes of the provision relating to the purchase or exchange of a covered manufactured petroleum product, the covered manufactured petroleum product may be identified by a bill of lading, or equivalent document of receipt, together with a waiver by the transferrer of any rights to drawback on the covered manufactured petroleum product.

Section 632 also amends the packaging material drawback provision to expand eligibility for dutiable packaging material if used in the packaging of either the dutiable imported article or its substitute article as long as that article was exported or destroyed.

This section also establishes a period of three years from the date of export or destruction in which to file a complete claim. By virtue of changes elsewhere in this bill, the Committee understands that the Customs Service would have three years from the date of payment of a claim to initiate the verification of that claim. The bill also provides that, if a drawback claim is made under one subsection of section 313 of the Tariff Act of 1930 but is denied, the claim will be deemed to have been filed under any other subsection if the claim is allowable under that subsection. The Committee understands that the Customs Service will not interpret this provision as imposing a requirement on it to investigate all alternatives in addition to the claimed basis before liquidating the drawback claim as presented, but will interpret the provision as allowing such a claimant to raise the alternative subsections by protest under section 514 of the Tariff Act of 1930.

Section 632 also allows a company to buy another company's factory and satisfy the "one manufacturer" requirement, under certain conditions. It also allows a person to buy a factory or division of another company and include a transfer of drawback rights. In all cases, the value of the realty and personalty transferred must exceed the value of the drawback rights transferred to prevent pure sales of drawback rights. The Committee intends that a Trustee in Bankruptcy who has succeeded to all of the assets of an entity in bankruptcy would be considered to be a drawback successor. This section also requires certifications against multiple claims of drawback rights.

Section 632 also requires any person who provided a certification of a fact which enabled another person to perfect a claim for drawback to keep records to show the validity of the certified fact. Section 632 codifies current Customs Service practice against "piggybacking" other duty exemption benefits (FTZs, bonded warehouses, and duty-free temporary importation) onto the drawback benefits and provides that only one drawback claim per exportation or destruction will be allowed, but provides for appropriate credit or deduction for claims covering components or ingredients.

With respect to the current practices of the Customs Service for auditing drawback claims, the Committee is concerned that the Service may be denying entire claims in cases where a claim is deficient only with respect to a small number of entries or due to minor omissions. The Committee expects that if the entire universe of the claimed import entries and exports is audited and the audit reveals that only a portion of a company's claims are deficient, drawback should be denied only on the deficient portion. If, however, a representative sample is audited and the audit reveals that a significant portion of the audited claim is deficient, then denial of a drawback claim may extend beyond the portion of the claim audited.

The Committee is also concerned with the lack of consistency with respect to the timeframes for record retention, submission of drawback claims and potential audit exposure. It is the Committee's expectation that the Customs Service will issue drawback regulations that take into consideration the various time limitations for recordkeeping, filing claims, amendments and clarifications and for auditing and liquidating drawback claims.

Section 632 enters into effect upon the date of enactment of the Act (see section 692). The Committee intends that this section is applicable to any drawback entry made on or after the date of enactment as well as to any drawback entry made before the date of enactment if the liquidation of the entry is not final on the date of enactment.

Section 633: Effective date of rates of duty

This section of the bill makes technical and conforming amendments to section 315 of the Tariff Act of 1930, which sets forth the effective date of the applicable rate or rates of duty imposed on any article of merchandise entered for consumption or withdrawn from warehouse for consumption. The implementing bill updates the language used in the section by substituting "Customs Service" for "the appropriate customs officer" to reflect agency's modernization and automation objectives, and changes a reference to the old Tariff Schedules of the United States (TSUS) to a reference to the equivalent provision in the Harmonized Tariff Schedule of the United States (HTSUS).

Section 634: Definitions

This section modifies section 401 of the Tariff Act of 1930, which sets forth definitions of certain terms used in the customs laws. The section amends the definition of "hovering vessel" to close certain loopholes in the law, and adds definitions of "electronic transmission"; "electronic entry"; "electronic data interchange system"; "National Customs Automation Program"; "import activity summary statement"; and "reconciliation."

Section 635: Manifests

Section 431 of the Tariff Act of 1930 currently requires the filing of a vessel manifest, and specifies requirements for the form, content, signing and delivery, and public disclosure of that manifest. Section 635 deletes the specific requirements for the contents of a manifest and instead authorizes the Secretary of the Treasury to prescribe the manifest form and content and the manner of production and delivery of the manifest. This will provide the Customs Service with authority to permit the electronic transmission of manifests. This section further provides that manifests may be supplemented by "bill of lading data" to be submitted with a manifest and clarifies responsibilities concerning production and delivery of manifests.

The Committee believes that these revisions to the manifest requirements will permit the Customs Service to link manifest production requirements to better target high risk shipments according to such criteria as type of merchandise and country of origin. The Committee understands that, in many cases, the form and content of manifests have been developed and stipulated in international treaties to which the United States is a signatory, and the Committee expects that the Customs Service will respect U.S. obligations under these treaties as it develops its manifest requirements.

The section also includes a provision for correcting a manifest discrepancy; that authority is currently provided in section 440 of the Tariff Act of 1930, which is repealed by this bill.

This section of the implementing bill will also allow summary manifesting by carriers, including express consignment companies, of letter and document shipments which are already exempt from Customs Service entry requirements. Letter packs and document packs would be required to be segregated according to size and country of origin. While the Committee believes that these changes are desirable because they will minimize the recordkeeping and data processing burdens on the affected industry, it is the Committee's firm intention that these changes not adversely affect the ability of the Customs Service to enforce the trade, customs and drug laws. The Committee understands that letter and document packs that may contain "merchandise," especially monetary instruments, are still subject to the current separate manifesting requirements. The Committee also understands that the Customs Service cannot guarantee overnight clearance of items subject to summary manifesting, since additional examination procedures may be required. Nonetheless, the Committee expects the Customs Service to make best efforts to achieve overnight clearance of such items in most instances.

Section 636: Invoice contents

Section 481(a) of the Tariff Act of 1930 provides for the mandatory production of an invoice and specifies the information that must be stated on the invoice. Subsection (b) provides the procedures for shipments not purchased and not shipped by the manufacturer. Subsection (c) provides procedures for merchandise purchased in different consular districts. Subsection (d) provides that the Secretary of the Treasury may provide exceptions to the requirements of this section by regulation. Section 636 of the implementing bill amends section 481 to allow importers to transmit invoices, bills and other documents to the Customs Service by electronic means. This section also authorizes importers and the Customs Service to use partial invoices and the electronic equivalent of invoices, bills, or other documents.

Section 637: Entry of merchandise

The essential requirements for the entry of merchandise are set forth in section 484 of the Tariff Act of 1930. Section 637 of the implementing bill amends the law in several respects. It authorizes importers to transmit entry documents and/or data electronically to the Customs Service. It also permits the periodic filing of entries by authorizing the Secretary to prescribe by regulation the time periods within which an entry must be filed. These regulations will provide that an importer may transmit electronically, by the 20th day following the end of a calendar month, an import activity summary statement covering all or some of the entries made during the calendar month. This electronic transmission would substitute for the filing of individual entry summaries. Whether an importer chooses to use the entry/entry summary procedure or the entry/import activity summary statement, reconciliation would be available. Reconciliation is

designed to permit those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted, to be provided to the Customs Service at a later date. Importers that elect to use the reconciliation procedures will be required to post a bond or security, unless the bond or security filed at the time of entry also covers reconciliation statements.

Section 637 also permits the use of the reconciliation procedures for antidumping/countervailing duties (AD/CVD) duty entries. The Customs Service will be able to use these procedures for AD/CVD duty entries by extending the time when a reconciliation is due for the AD/CVD entries, beyond the 15-month timeframe, to no later than 90 days after the Customs Service notifies an importer that a period of review has been completed. Section 637 amends section 771 of the Tariff Act of 1930 to define the term "entry" to include a reconciliation, and also requires the Customs Service to consult with the Department of Commerce in developing regulations to implement these procedures.

The Committee intends that the reconciliation procedures may apply to AD/CVD entries. The purpose of the reconciliation for AD/CVD cases will be for the importer to group entries together for purposes of assessment and liquidation. By amending section 771 to define the term "entry" to include a reconciliation, the Committee stresses that the reconciliation entry represents the importer's liability for AD/CVD duties; and therefore, the Customs Service may liquidate the underlying entries for purposes other than the collection of antidumping or countervailing duties. The Committee intends that the Customs Service work closely with the Department of Commerce in developing regulations to implement this concept.

Entries covered by an entry summary or an import activity summary statement will be liquidated in accordance with normal Customs Service procedures, or kept open at the importer's request. If an importer wishes to submit a reconciliation for a particular entry or entries, he may do so by specifying in the entry summary or import activity summary statement that he wishes to provide relevant data at a later time, that is, when it becomes available. When the importer files the reconciliation, the Customs Service will compare the information provided in the entry summary or import activity summary statement with the information provided in the reconciliation and make proper adjustments.

This approach permits the liquidation of an entry despite the fact that undetermined information has not been transmitted to the Customs Service through the reconciliation process. For example, if an entry covers merchandise for which the importer supplies "assists" which can only be calculated on an annual basis, the importer can indicate to the Customs Service that information contained in the entry is accurate for all purposes, other than its value which is to be adjusted by the undetermined assists, and should be liquidated. Upon liquidation of the entry, any decision of the Customs Service affecting that liquidation, for example classification, could be protested pursuant to section 514 of the Tariff Act of 1930. When the "assist" information is later furnished in the reconciliation statement, the reconciliation statement will be treated as an entry, and liquidated. The decisions of the Customs Service pertaining only to the information contained in the liquidated reconciliation would be the proper subject of a protest.

The Committee believes that the introduction of the import activity summary statement and the concept of reconciliation will permit importers and customs brokers who are capable of interacting electronically with the Customs Service to handle Customs transactions in a more efficient way, thus reducing paperwork and administrative costs.

Under this section, importers will be required to use "reasonable care" in making entry. In the Committee's view, this requirement establishes a "shared responsibility" between the Customs Service and the trade community, and allows the Customs Service to rely on the accuracy of the information submitted by importers. This should allow the Service to streamline entry procedures. It is the Committee's view that the concept of "shared responsibility" means, at a minimum, that "reasonable care" be used in discharging the activities for which the importer bears responsibility. These include providing the classification and valuation of the merchandise, the furnishing of information sufficient to fix the final classification and appraisal of merchandise by the Customs Service; taking measures that will lead to and ensure the preparation of accurate documentation; and providing sufficient pricing and financial information to permit proper valuation of merchandise. Failure to use reasonable care would be actionable under the appropriate culpability levels of section 592 of the Tariff Act of 1930.

When an importer elects to submit a reconciliation, the Committee intends that "reasonable care" be used in preparing information contained in the reconciliation and the information contained in the entry summary or import activity summary statement that is certified by the importer for liquidation. However, it is the Committee's intent that, in most cases, discrepancies and inaccuracies in information contained in entry summaries or import activity summary statements for which a reconciliation will be submitted should not be penalized under section 592 for failure to exercise reasonable care since the importer, by noting its intent to submit a reconciliation, is indicating that the information in the entry summary or import activity summary statement relating to the reconciliation is incomplete.

It is the Committee's intent that all certified electronic transmissions shall be binding and have the same force and effect as a signed paper document.

Section 638: Appraisement and other procedures

Under section 500 of the Tariff Act of 1930, the appropriate Customs Service official shall appraise merchandise, ascertain the classification and rate of duty, fix the amount of duty to be paid, and determine any increased or additional duties due or any excess of duties deposited, liquidate the entry, and give proper notice of liquidation. Section 638 of this bill updates the law to reflect automation and computerization realities and acknowledge that information and data may be electronically transmitted. As part of the "shared responsibility" concept, it is the intent of the Committee that the importer have the responsibility to correctly value and classify the merchandise. This section retains the requirement that the Customs Service has the responsibility to ensure that entry was made correctly and determine the amount of duties due, *i.e.*, that it fix the final classification, appraisement, and rate of duty on an entry, and liquidate the entry. The amendments made by this section also reflect changes in the law which require the Customs Service to assess user fees and taxes on entries. Finally, the bill authorizes the Customs Service to liquidate reconciliations and to give or transmit electronically notice of liquidation in such form and manner as is prescribed by regulation.

Section 639: Voluntary reliquidations

Under section 501 of the Tariff Act of 1930, a liquidation of any entry may be reliquidated within 90 days from the date on which notice of the original liquidation is given. Section 639 of this bill authorizes the electronic transmission of reliquidation notices.

Section 640: Appraisement regulations

Section 502(a) of the Tariff Act of 1930 provides that the Secretary of the Treasury shall issue regulations necessary to secure the proper appraisement, classification, and assessment of duties at the various ports of entry, and to direct any Customs officer to go from one port to another port to appraise the imported merchandise. Section 502(b) states that no ruling made by the Secretary of the Treasury imposing Customs duties shall be reversed or modified adversely to the United States except in concurrence with the Attorney General, or a final decision of the CIT, or a final decision of a binational panel pursuant to the CFTA.

Section 640 of the implementing bill amends section 502 to facilitate the implementation of remote filing under the NCAP by authorizing the Secretary to direct Customs officers at one port to review entries filed at another port. This section also repeals the requirement that the concurrence of the Attorney General be obtained prior to the reversal of a ruling by the Secretary construing any law imposing customs duties.

This section also authorizes the Secretary to prescribe regulations for the issuance of binding rulings prior to the entry of merchandise. The Committee expects that these changes will provide greater certainty to importers through the binding rulings program and facilitate the entry process.

Section 641: Limitation on liquidation

Section 504 of the Tariff Act of 1930 provides for the liquidation of entries within one year unless liquidation is extended or suspended. Liquidation can be extended by the Customs Service or the importer or suspended because of statute or court order. The Customs Service must provide notice of the extension or suspension of liquidation. Any entry not liquidated at the expiration of four years shall be deemed liquidated unless liquidation continues to be suspended. When the suspension is removed, the entry must be liquidated within 90 days.

In order to implement the reconciliation process, section 641 of the implementing bill makes conforming amendments regarding the reconciliation of entries and the liquidation of entries subject to reconciliation. It provides that a reconciliation shall be treated as if it were an entry summary, and subject to the normal extension, suspension and protest requirements under sections 504 and 514 of the Tariff Act of 1930. To reflect technological changes, this section also authorizes the electronic transmittal of notices of extension and suspension of liquidation.

In addition, section 641 changes the time period, from 90 days to six months, in which the Secretary of the Treasury must liquidate a suspended entry after the suspension is removed; the six-month period runs from the date the Customs Service is notified that the suspension has been removed.

The Committee has also made clear that the four-year limitation on unliquidated

merchandise does not apply to suspended entries. This is intended to overturn the decision rendered in *Nunn Bush Shoe v. United States*, CIT, Slip Op. 92-5 (1992). The four-year limitation will apply only to extended entries, i.e., it sets the outer limit for extensions. Any entry whose liquidation is extended that is not liquidated within four years, and any entry whose liquidation is suspended and such suspension is subsequently removed but the entry is not liquidated within six months after the Customs Service receives notice of the removal, shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record at the time of entry.

In order to correct an omission in existing law and codify existing administrative practice, this section also provides that the Customs Service must inform sureties when a suspension is removed or extended. Currently, the agency is required only to provide notice of an extension of liquidation of an entry to sureties when the liquidation is suspended by statute or court order. This section also requires notice to be sent to the surety when liquidation is extended because the Customs Service requires additional information or when the importer has requested an extension. It further allows the Customs Service to extend liquidation when information needed for insuring compliance with applicable law is not available to or in the possession of the Customs Service.

The implementing provision retains the current authority for the Secretary of the Treasury to extend liquidation if sufficient information is not available to the Customs Service to ensure compliance with applicable laws or the importer requests an extension.

Section 642: Payment of duties and fees

Section 505(a) of the Tariff Act of 1930 provides that, unless merchandise is entered for warehouse or transportation, or under bond, the importer shall deposit at the time of entry or at such later time as the Secretary of the Treasury shall prescribe by regulation (but not to exceed 30 days after the date of entry) the duties estimated to be due. Section 505(b) provides that the appropriate Customs officer shall collect any increased or additional duties due or refund any excess duties deposited as determined by liquidation or reliquidation. Section (c) provides that duties due upon liquidation or reliquidation shall be due 15 days thereafter, and unless payment is received within 30 days after that date, duties shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation.

Section 642 of the implementing bill provides the Customs Service with authority to permit the periodic payment of duties, taxes, and fees. The Committee believes that such periodic payments should permit the Customs Service to streamline entry procedures. Under this section, periodic payments may be made by filing a monthly import activity summary statement together with the amounts due. The section further provides that interest will accrue on periodic payments from the first day of the month the import activity summary statement is or should be filed until the day the statement is actually filed. These changes also stipulate that underpayment or overpayment of duties and fees determined at liquidation or reliquidation shall be collected or refunded together with interest, as appropriate. The Committee believes that these changes will provide equity in the collection and refund of duties and taxes, together with interest, by treating collections and refunds the same.

Section 643: Abandonment and damage

Section 506 of the Tariff Act of 1930 provides that allowance shall be made in the estimation and liquidation of duties for abandonment or damage to merchandise pursuant to regulations prescribed by the Secretary of the Treasury. Section 643 of the implementing bill deletes obsolete language, makes conforming amendments regarding entries and invoices, and authorizes communication between the Customs Service and the importing community through electronic means.

Section 644: Customs officer's immunity

Under current law (section 513 of the Tariff Act of 1930), immunity is provided to a Customs officer for any decision relating to appraisement, classification, or duties due on collection. Section 644 extends the immunity of Customs officers to include the collection of fees and taxes.

Section 645: Protests

Section 514 of the Tariff Act of 1930 provides that the decisions of the appropriate customs officer relating to appraisal, classification and rate and amount of duties chargeable, all charges or exactions within the jurisdiction of the Secretary of the Treasury, the exclusion of merchandise from entry or delivery or a demand for redelivery, the liquidation or reliquidation of an entry, the refusal to pay a drawback claim and the refusal to reliquidate an entry shall be final unless protested in accordance with the provisions of this section. Section 645 of the implementing bill provides that reconciliation decisions may be protested, but the protest may only concern the issues contained in the reconciliation. This section also authorizes the electronic transmittal of protests, and permits the Secretary of the Treasury, by regulation, to add requirements for the content of protests.

Section 646: Refunds and errors

Under current law (section 520 of the Tariff Act of 1930), the Secretary of the Treasury is authorized to refund duties or monies on (1) excess duty deposits as determined at liquidation or reliquidation; (2) erroneous or excessive fees, charges, or exactions; (3) remitted or mitigated fines, penalties, and forfeitures; and (4) duties, fees, charges, or exactions paid by reason of clerical error. Section 520(c) provides that, notwithstanding that a valid protest was not filed, the appropriate Customs officer may reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law; or any assessment of duty on household or personal effects in which an application for refund has been filed. Section 520(d) provides that if a determination is made to reliquidate an entry as a result of a protest filed, or under section 520(c), or by court order, interest shall be allowed on any amount paid as increased or additional duties. Interest shall be calculated from the date of payment to the date of the refund or the filing of a summons, whichever occurs first. Section 646 of the implementing bill makes conforming amendments regarding reconciliations, and clarifies that clerical errors or other inadvertencies may result from or be contained in an electronic transmission. Section 520(d) is repealed in section 642 of this bill, which provides for interest payments.

Section 647: Bonds and other security

Section 623 of the Tariff Act of 1930 gives the Secretary of the Treasury the authority to require or authorize Customs officers to require bonds or other security to protect the revenue or to assure compliance with any provision of law, and to set the conditions and form of the bonds. Section 647 of this bill permits the Secretary of the Treasury to authorize the electronic transmittal of bonds to the Customs Service and clarifies that any bond electronically transmitted shall be binding on the parties thereto and have the same force and effect as if it were manually executed, signed, and filed. This provision confirms that electronic transmission to the Customs Service will bind both the principal and surety. This section is intended to eliminate potential defenses to claims raised by principals or sureties based solely on the contention that a bond is not valid because it is not physically signed. This provision is intended to avoid the situation which can arise with written bonds in which the principal may not be bound because of the improper execution or non-execution of a bond, while a surety, who properly signed the bond, finds itself solely liable on the obligation.

Section 648: Customhouse brokers

Section 641 of the Tariff Act of 1930 provides the procedures applicable to customs brokers, including the issuance of licenses and permits; disciplinary actions, including penalties, suspension or revocation of a license or permit; and fees to defray the costs of the administration of this provision. The implementing bill's amendments to this provision are intended to permit the Customs Service and the importing community to communicate electronically and to allow brokers to modernize by using computer technology in their recordkeeping operations rather than requiring the paper retention of documents. Section 647 clarifies that the definition of "customs business" does not include the mere electronic transmission of data received for transmission to the Customs Service.

This section also allows the Customs Service to issue national and single district permits to licensed brokers. The Committee intends that national permits are to be used solely for "remote location filing" under the NCAP. The Committee intends that single district permits will apply to brokers who do not participate in remote entry filing.

The section also provides for the appointment of broker subagents so that brokers with single district permits may serve as subagents for nationally permitted brokers. The bill also permits brokers to limit their liability contractually to other persons in the conduct of customs business. This section also expands the time, from 15 days to 30 days, within which a hearing must be held after a broker is notified by the Customs Service that a suspension or revocation hearing will take place.

The Secretary of the Treasury is also authorized to prescribe regulations concerning the conversion of data to electronic retention media and the use of centralized record retention systems.

Section 649: Conforming amendments

Section 649 makes technical and conforming amendments to sections 447 and 449 of the Tariff Act of 1930, which concerns the entry and unlading of vessels.

SUBTITLE C—MISCELLANEOUS AMENDMENTS TO THE TARIFF ACT OF 1930

Section 651: Administrative exemptions

Current law (section 321 of the Tariff Act of 1930) authorizes the Secretary of the Treasury to exempt from duty certain articles that do not exceed specified dollar amounts. Section 651 of the implementing bill increases the statutorily specified dollar

amounts that trigger eligibility for such administrative exemptions. Although the dollar amounts were adjusted in 1975, 1978, and 1983, they have not kept pace with inflation and the current amounts are not sufficiently high to permit the Secretary to meet the statutory goal of limiting expense to the Government disproportionate to the revenue that is collected. The implementing bill also adds a new provision that will allow the Customs Service to waive collection of duty where the duty is so low that the expense and resources required to process the entry are disproportionate to the revenue that would be collected.

Section 652: Report of arrival

Section 433 of the Tariff Act of 1930 requires that arriving vessels, vehicles and aircraft be immediately reported, provides for the presentation to the Customs Service of necessary documents and prohibits the unauthorized departure of vessels, vehicles and aircraft and unauthorized discharge of passengers or merchandise. This section makes conforming amendments regarding hovering vessels and authorizes the electronic transmittal to the Customs Service of documents, papers, manifests, and other documents whose presentation is required by law.

Section 653: Entry of vessels

Sections 434 and 435 of the Tariff Act of 1930 provide the vessel entry requirements applicable to American and foreign vessels, and also provide for formal entry at the customhouse within 48 hours of arrival from a foreign port or place. Section 653 of the implementing bill amends antiquated provisions which prescribe vessel entry procedures with a degree of specificity that allows little or no administrative discretion. The implementing bill, by amending section 434 and repealing elsewhere in this bill section 435, consolidates in one section vessel entry requirements for American and foreign vessels. Under this section, the Secretary of the Treasury will have the authority to provide by regulation the specific procedures pertaining to vessel entry. These regulations will permit preliminary vessel entry in lieu of, or before, formal entry is made (preliminary entry is currently provided for in section 448 of the Tariff Act of 1930). This section also gives the Secretary authority to prescribe by regulation the place and the manner in which formal and preliminary vessel entries are to be made. This will authorize the Customs Service to permit formal or preliminary vessel entry to be made outside a designated port of entry. The implementing bill modifications also permit vessel entry to be made electronically.

Section 653 will also require the Customs Service, in permitting preliminary entry, to board a sufficient number of vessels to ensure compliance with the laws it enforces. It is the Committee's belief that a continuation of the Customs Service's current vessel boarding practices will aid that agency's enforcement efforts. The Committee is convinced that vessel boarding can, in certain circumstances, play an important role in detecting violations of the law. The Committee expects that, in the future and notwithstanding the Customs Service's increased reliance on electronic information processing, the Service will continue to board at least as many vessels as are currently boarded.

Section 654: Unlawful return of foreign vessel papers

Section 438 of the Tariff Act of 1930 provides for a penalty against a foreign consul who delivers vessel papers to a master of a foreign vessel before such master is able to produce a vessel clearance issued by the Customs Service. Section 654 makes technical conforming amendments.

Section 655: Vessels not required to enter

Section 441 of the Tariff Act of 1930 provides a list of types of vessels which are not required to make entry at the customhouse when arriving in the United States. Section 655 of the implementing bill makes these exceptions applicable to the clearance requirements. The Committee believes that these changes are needed to make the law consistent with current Customs Service practice and with changes made to the report of arrival requirements by section 3111 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570, 100 Stat. 3207). This section also provides that the following types of vessels will not be required to meet vessel entry and clearance requirements: (1) vessels carrying passengers on excursion from the U.S. Virgin Islands to the British Virgin Islands and returning; and (2) U.S. documented vessels with recreational endorsement or undocumented U.S. pleasure vessels not engaged in trade. If either of these types of vessels carries on board an article that is required to be entered, this section requires that such entry be reported immediately upon arrival, rather than after 24 hours as provided under current law.

Section 656: Unlading

Current law (section 448 of the Tariff Act of 1930) provides the requirements for obtaining a permit from the Customs Service prior to unlading merchandise, passengers or baggage; provides that preliminary entry may be made aboard vessels (but such does not excuse a vessel operator from making formal vessel entry at the customhouse); and provides that merchandise unladen under a permit must be retained at the place of unlading until the merchandise is entered (which must occur within 48 hours). Section 656 of the implementing bill removes from section 448 the authority for granting a preliminary entry. (It will be provided for in section 434 of the Tariff Act of 1930, the substantive provision on vessel entry.) This section also eliminates the requirement that a boarding officer must examine the manifest before preliminary entry. The Committee notes, however, that the Customs Service will still have the authority to board vessels, and the Committee expects that the Customs Service will do so with such frequency as is warranted to ensure the effective enforcement of U.S. customs, trade and drug laws. As noted elsewhere in this report, the Committee expects that the Customs Service will continue to board in the future approximately as many vessels as it currently boards because the Committee is convinced that boarding, in some circumstances, can contribute substantially to the enforcement efforts of the Customs Service.

This section also authorizes the Customs Service to transmit electronically to carriers permits that allow them to unlade merchandise. These permits will be transmitted pursuant to authorized electronic data interchange systems. Carriers will be obligated to notify the Customs Service of unladen merchandise where entry has not been made. Failure to so notify the Customs Service will subject the owner or master of the vessel or vehicle or his agent to a civil penalty not to exceed $1,000 for each bill of lading for which notice is not given, and that party will be responsible for the unladen merchandise until removed from his control in accordance with section 490 of the Tariff Act of 1930.

Section 657: Declarations

Section 485 of the Tariff Act of 1930 requires the importer of record to make a declaration under oath setting forth specified facts relating to the imported merchandise. Section 657 of the implementing bill authorizes transmittals to be made electronically and makes technical conforming amendments.

Section 658: General orders

Current law (section 490 of the Tariff Act of 1930) requires the Customs Service to place general order (unclaimed) merchandise in a bonded warehouse at the expense of the consignee until entry can be made. Section 658 of the implementing bill eliminates a legal fiction by deleting the requirement that Customs Service officers take unentered merchandise into their custody and send it to a bonded warehouse; Customs officers do not actually take unentered merchandise into their custody. Instead, carriers will be required to notify a bonded warehouse of such unentered merchandise and the bonded warehouse shall arrange for the transportation of the unentered merchandise to its premises for storage at the risk and expense of the consignee. This section also codifies current practice whereby merchandise that cannot be entered because of an incomplete entry is transported to a bonded warehouse. The amendments also recognize that incomplete entries may result from lack of adequate electronically transmitted information. This section also authorizes the Secretary of the Treasury to establish procedures governing incomplete entries of merchandise consigned to or owned by the U.S. Government.

Section 659: Unclaimed merchandise

Under current law (section 491 of the Tariff Act of 1930), unclaimed merchandise shall be stored for a period of one year before it is considered abandoned to the Government and sold at a public auction. Section 659 of this bill reduces the waiting period from one year to six months. After six months in storage, the Customs Service may sell the merchandise at public auction or notify all known interested parties that, unless entered for consumption, title to the subject merchandise shall vest in the United States 30 days after such notice. If the latter option is exercised, the amendment vests title to the goods in the United States free and clear of any liens and encumbrances so that the Customs Service or a transferee of the merchandise receives clean title. It is the Committee's belief that these amendments will reduce storage and processing costs associated with unclaimed merchandise.

This section also allows the Government to retain the goods for official use or transfer them to any other Federal, State, or local agency in lieu of sale. All transfer and storage charges and expenses will be paid by the receiving agency. The rights of interested parties are protected in the same manner as if the goods were sold. Finally, the section provides that the Secretary may grant relief to parties who can establish they did not receive notice that title to the merchandise will vest in the United States unless entry of the merchandise is made. The Committee believes that these changes will streamline the disposition of unclaimed merchandise while providing appropriate safeguards for all interested parties.

Section 660: Destruction of merchandise

Section 492 of the Tariff Act of 1930 provides that any merchandise that is abandoned or forfeited to the Government which is subject to internal revenue tax and which the appropriate Customs Service official determines will not sell for a sufficient amount to pay such tax, shall be destroyed instead of

being sold at auction. Section 660 of the implementing bill gives the Customs Service the option to retain or otherwise dispose of the property, rather than requiring destruction in all cases where the proceeds of sale are insufficient to cover taxes. The Committee believes that these amendments will provide for the more efficient disposition of abandoned or forfeited merchandise.

Section 661: Proceeds of sale

Section 493 of the Tariff Act of 1930 provides that the surplus of the proceeds of sale, after payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited in the U.S. Treasury. Under section 661, a priority is established for the disposition of any surplus proceeds of sale. Under this section, proceeds from the sale of unclaimed merchandise are to be used first to pay outstanding duties, fees, and taxes due on such merchandise. Thereafter, surplus proceeds may be applied to offset the expenses of sale and other liens, and any remaining surplus proceeds will be deposited in the U.S. Treasury.

Section 662: Entry under regulations

Current law (section 498 of the Tariff Act of 1930) permits the Secretary of the Treasury to issue regulations relating to the procedures for informal entry. Section 662 raises the informal entry qualification amount from $1,250 to an amount prescribed by regulations, but not more than $2,500. This section also permits the Secretary to prescribe the dollar limit for the informal entry of certain articles of U.S. origin as specified in the statute. The Committee intends that these modifications will streamline the entry process for informal entries.

Section 663: American trademarks

Section 526(e)(3) of the Tariff Act of 1930 provides that forfeited counterfeit trademark items shall be stored for a period of one year after the date of forfeiture before sale. Section 663 of the implementing bill reduces the storage period to 90 days to reduce storage costs to the Government and expedite the disposition of the forfeited merchandise.

Section 664: Simplified recordkeeping for merchandise transported by pipeline

Present law does not specifically provide for the transportation in bond of merchandise by pipeline. Present law governing transportation in bond generally (entry for immediate transportation and entry for transportation and exportation; sections 552 and 553 of the Tariff Act of 1930, respectively) does not permit the commingling of the merchandise transported.

Section 664 of the implementing bill permits accounting for merchandise in Customs Service custody (i.e., bonded merchandise) moved by pipeline (thus, in most cases, commingled) on a quantitative basis. That is, if it is established (by a bill of lading or equivalent document of receipt, issued by the pipeline carrier) that a given quantity of the bonded merchandise entered the pipeline, the Customs Service may accept a bill of lading or equivalent document of receipt, issued by the pipeline carrier and accepted by the consignee as identifying a like quantity being withdrawn from the pipeline. All involved parties would be subject to applicable recordkeeping requirements under sections 508 and 509 of the Tariff Act of 1930.

Section 665: Entry for warehouse

Under section 557(a) of the Tariff Act of 1930, merchandise withdrawn from a customs bonded warehouse is subject to entry and applicable duties, when withdrawn for consumption, at the time of such withdrawal. Under section 309 of the Tariff Act of 1930, merchandise withdrawn from a customs bonded warehouse for loading as supplies on qualifying aircraft is considered to be exported.

At most major airports, different "lots" (*i.e.*, categories, such as imported, bonded and domestic) of fuel are commingled in common storage systems. The Customs Service considers withdrawal of fuel from storage tanks at airports to be withdrawal from bonding. In order for exports of the bonded merchandise (imported fuel then used on international flights) to qualify for the duty-free treatment granted under section 309, the Customs Service requires daily accounting of the commingled fuel, and payment of duties for non-exported fuel by the following day. Section 665 of the implementing bill permits accounting on a monthly basis for turbine fuel withdrawn from a customs bonded warehouse for use as supplies on qualifying aircraft. That is, if turbine fuel withdrawn from a customs bonded warehouse could be shown to have been used as supplies on qualifying aircraft within 30 days after withdrawal, the turbine fuel would not be subject to duty. Turbine fuel not shown to have been so used in this 30-day period would be subject to duty, which would be required to be deposited by the 40th day after withdrawal and subject to interest as of the date of withdrawal.

Section 666: Cartage

Section 565 of the Tariff Act of 1930 requires merchandise entered for warehousing to be transported by a cartman licensed by the Customs Service, because the merchandise has not been released from Customs Service custody.

Section 666 of the implementing bill adds bonded carriers to the list of persons eligible to cart merchandise within the limits of a port. Under section 551 of the Tariff Act of 1930, bonded carriers may currently transport bonded merchandise between ports. The implementing bill eliminates the anomaly of separating intraport transportation from interport transportation. The Secretary has authority under the bonded carrier and cartage statutes to determine the eligibility of applicants for either category. This provision will result in savings of time and money for both the trade and Customs.

Section 667: Seizure

Section 612(b) of the Tariff Act of 1930 provides that if the expense of storing a seized conveyance or merchandise is disproportionate to its value, and the value is less than $1,000, the Customs Service may order its destruction. Section 666 of the implementing bill eliminates the requirement that the seized conveyance or merchandise must be less than $1,000 before it can be destroyed pursuant to this provision. The Committee believes that this will reduce storage costs by permitting destruction of merchandise in all cases where the expense of keeping the vessel, vehicle, aircraft, merchandise or baggage is disproportionate to its value. This section also provides that no Customs Service officer shall be liable for the destruction or other disposition of property pursuant to this statute.

Section 668: Limitation on actions

Section 621 of the Tariff Act of 1930 provides for a five-year statute of limitations for civil actions involving pecuniary penalties and forfeiture of property under the Customs laws. In order to provide importers with certainty regarding the extent of their liability for lawful duties, section 668 of the implementing bill creates a statute of limitations for the recovery of lawful duties of which the United States was deprived as a result of a violation of section 592 or 593A of the Tariff Act of 1930. The Committee intends that the Government initiate suit promptly or be foreclosed from recovering the duties.

Section 669: Collection of fees on behalf of other agencies

There is no provision in current law that requires other Government agencies to reimburse the Customs Service for the expenses it incurs in collecting fees on behalf of these Government agencies. Section 669 of the implementing bill creates a new provision, section 529 of the Tariff Act of 1930, which will require other agencies to reimburse the Customs Service for such expenses. The amounts reimbursed to the Customs Service shall come from the fees collected. This will ensure that the Customs Service recovers the costs incurred in administering fee collection programs on behalf of other Government agencies. The Committee believes that this requirement is needed to provide the Customs Service with additional resources for revenue collection. However, the Committee believes that the Customs Service should make a good faith effort to collect all duties, taxes and fees without regard to the likelihood of reimbursement.

Section 670: Authority to settle claims

Because of concerns that the Customs Service has little incentive to avoid damaging cargo during examinations, the Committee believes that it is necessary to enact legislation to provide recourse or compensation to importers whose merchandise is unnecessarily damaged during the course of an examination. Section 670 creates a new provision, section 630 of the Tariff Act of 1930, which grants the Secretary of the Treasury authority to settle claims for less than $50,000 against certain Customs Service employees who, while acting within the scope of their employment, cause damage to or loss of privately owned personal property. The statute will not apply to damage to commercial property, claims presented more than one year after the harm occurs, or if presented by a Government employee acting within the scope of employment. As provided in section 685 of the implementing bill, claims will be paid out of the Treasury Forfeiture Fund.

Section 671: Use of private collection agencies

The Committee believes that the Customs Service should be granted the authority, as a last resort, to contract with private collection agencies to attempt to recover the indebtedness which the agency currently writes off as uncollectible. Section 671 creates a new provision, section 631 of the Tariff Act of 1930, which allows the Secretary of the Treasury to contract with private agencies for collection services to recover indebtedness arising under the customs laws, provided that the private collection agencies are employed only after the Customs Service exhausts all administrative efforts to collect the indebtedness. The Customs Service must continue to attempt collection through applicable surety bonds prior to utilizing a private collection agency. The Secretary of the Treasury will retain authority to settle any claims or refer the matter to the Department of Justice for litigation. Finally, the private collection agency will be subject to the Freedom of Information Act (5 U.S.C. 552 et seq.) and all Federal and State laws and regulations related to debt collection practices.

SUBTITLE D—MISCELLANEOUS PROVISIONS AND CONSEQUENTIAL AND CONFORMING AMENDMENTS TO OTHER LAWS

Section 681: Amendments to the HTSUS

Under present regulations, shipments which leave the United States and are undeliverable to the country of destination (without having left the custody of the carrier or foreign customs service) are considered exports and have to be "re-entered" into the United States as imports. The Committee regards these entry requirements as unnecessary and section 681 of the implementing bill provides that such returned shipments will be exempt from entry requirements.

Current regulations also provide that rail equipment brought into the United States from Canada, while not subject to duty, is subject to entry requirements. Section 681 eliminates the entry requirements for rail cars and locomotives on which no duty is owed. This section authorizes the Secretary of the Treasury to impose reporting and bonding requirements to ensure that no duty is owed on rail cars brought into the United States without being entered and to develop regulations requiring the submission by railroads, equipment owners, and lessors of information demonstrating the rail equipment's eligibility for duty-free treatment. In addition, section 681 authorizes the Secretary to establish bonding requirements for companies to protect against rail equipment subject to a tariff from being brought into the United States without payment of duty.

This provision is intended to remove entry requirements that impede the use of Canadian freight cars and locomotives under the terms of the CFTA. While U.S. duties have been removed on most Canadian rail equipment, the Committee is concerned that railroads have been unable to take full advantage of the tariff removal because of the entry requirements. The Committee believes that entry of freight cars is impractical because the decision to use a freight car for domestic service, which would require entry, would be made after a rail car has crossed the border and been unloaded. The Committee understands that the entry requirements on locomotives and rail cars have been burdensome since equipment repeatedly crossing the border for subsequent use in domestic service in the United States must be entered each time. In developing the eligibility and bonding requirements described above, the Committee urges the Secretary to work closely with the railroads, equipment owners and lessors. The Committee is concerned that the Secretary not substitute new entry requirements for the old requirements or issue regulations that will make compliance difficult.

Under present regulations, instruments of international traffic, such as containers, rail cars and locomotives, truck cabs, and trailers, are exempt from formal entry procedures required of all merchandise entering the United States. This section of the implementing bill provides for the statutory exemption of these instruments from formal entry procedures. These instruments would be required to be accounted for when imported and exported into and out of the United States, respectively, through the manifesting procedures required of all international carriers with U.S. Customs. Fees associated with the importation of these instruments would be reported and paid on a periodic basis based on regulations issued by the Secretary of the Treasury and in accordance with international conventions on instruments of international traffic. The Committee intends that these privileges are to be extended to instruments of international traffic only when they are imported, and only so long as they are used, in international traffic. If they are imported for other use, or if they are diverted in the United States from use in international traffic, they are subject to the ordinary requirements for a consumption entry, duties and applicable fees.

Section 682: Customs personnel airport work shift regulation

Under current law, the Customs Service is required to consult with the Treasury-level Advisory Committee on Commercial Operations (COAC) prior to implementing changes of inspectional work shifts at airports. In some cases, this requirement has hampered the ability of the Customs Service to respond quickly and efficiently to changes in workloads at international airports. In some cases, after the need for a shift change becomes evident a full calendar quarter may elapse before the change can be implemented. To prepare for the quarterly COAC review, the Customs Service currently has to poll its field offices before each meeting to obtain details on inspectional shift changes at every international airport in the country.

Section 682 of the implementing bill repeals the consultation requirement with the COAC. The Committee believes that the elimination of the consultation requirement will enable a more rapid and efficient response at the local level to the need for shift changes.

Section 683: Use of harbor maintenance trust fund amounts for administrative expenses

The Internal Revenue Code of 1986, as amended, provides in section 9505(c) that amounts in the Harbor Maintenance Trust Fund ("Trust Fund") are available, as provided by appropriation Acts, for making expenditures:

(1) under section 210(a) of the Water Resources Development Act of 1986 (Corps of Engineers costs for dredging and maintaining harbors at U.S. ports);

(2) for payments of rebates of certain St. Lawrence Seaway tolls or charges; and

(3) for payment of expenses incurred by the Department of the Treasury in administering the harbor maintenance excise tax ("harbor tax") (but no more than $5 million per fiscal year) for periods during which no Customs merchandise processing fee applies under paragraph (9) or (10) of section 13031(a) of the COBRA.

The Customs merchandise processing fee was extended for three years by the Omnibus Budget Reconciliation Act of 1993 through September 30, 1998. Thus, since the Customs processing fee is currently in effect under COBRA, the Trust Fund is not permitted to be used for Department of the Treasury expenses for administering the harbor tax. The Customs Service generally has the responsibility for collecting and administering the harbor tax. The Corps of Engineers and the Department of Commerce generate certain data related to shipments of commercial cargo.

The Committee believes that additional enforcement resources are necessary for the Department of the Treasury to properly administer the harbor tax and to increase collection and audit efforts. This increased enforcement effort should result in the collection of additional tax revenues that are owed but are not being paid. Also, the Committee has determined that the Corps of Engineers and the Department of Commerce should be reimbursed for their expenses related to administering the harbor tax.

Section 683 of the implementing bill amends section 9505(c) to allow (subject to appropriations) up to $5 million per fiscal year from the Trust Fund to be used by the Department of the Treasury in administering the harbor tax to improve compliance. This is accomplished by removing the current Trust Fund restriction against such use while the Customs merchandise processing fee is in effect. Section 683 also specifies that such Trust Fund amounts are available to be used to reimburse the Corps of Engineers and the Department of Commerce for their administrative expenses related to harbor tax collection and enforcement efforts.

Section 684: Amendments to title 28, United States Code

In order to implement elements of the programs established for accreditation of and assessment of penalties on customs laboratories and the adjudication of the penalty provisions related to duty drawback, section 684 of the implementing bill makes a number of conforming changes to Title 28. 28 U.S.C. 1581 sets forth the actions in which the CIT is granted exclusive subject matter jurisdiction. Section 684 amends 28 U.S.C. 1581 to provide exclusive jurisdiction to the CIT with respect to any decision or order of the Customs Service to deny, suspend, or revoke accreditation of private laboratories. Currently, 28 U.S.C. 2631 sets forth the persons entitled to commence specified civil actions in the CIT. Section 684 amends that section of Title 28 to provide standing to commence a civil action to persons whose private laboratory accreditation was denied, suspended, or revoked by the Customs Service.

28 U.S.C. 2636 sets forth the time for commencement of specified actions in the CIT. Section 684 of the implementing bill provides that a civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation is barred unless commenced within 60 days after the date of the Customs Service decision or order and in accordance with the rules of the CIT. 28 U.S.C. 2640 sets forth the scope and standard of review of the CIT; section 684 of the implementing bill amends this section to provide that in any civil action commenced to review an order or decision by the Customs Service with respect to denial, suspension, or revocation of the accreditation of a private laboratory, the Court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order. 28 U.S.C. 2642 authorizes the CIT to order an analysis of imported merchandise by U.S. agency laboratories. Section 684 expands the authorization by permitting the CIT to order reports of laboratories accredited by the Customs Service, in addition to ordering an analysis of imported merchandise.

Section 684 also amends 28 U.S.C. 1582(1) to expand the jurisdiction of the CIT to adjudicate drawback penalty provisions and amends 28 U.S.C. 2635(a) to provide for the filing of official documents with the CIT. With respect to the filing of documents with the CIT, the Committee believes that the Court should be provided with maximum flexibility to respond to the changes that have arisen and will continue to arise from the new automated and electronic system for processing commercial importations. This will permit the Court to respond promptly to unanticipated problems by exercising its rulemaking authority. The Court, after receiving recommendations from its advisory committees, will be able to prescribe rules

regarding such matters as the information transmitted to the court; the manner and medium of the transmittal; the timing of the transmittal; and any other issue relating to the provision of the information necessary to ensure well-informed judicial review.

Section 685: Treasury forfeiture fund

The Treasury Forfeiture Fund is codified at 31 U.S.C. 9703; it replaced the Customs Forfeiture Fund, 19 U.S.C. 1613b. The proceeds of seizures and forfeitures are deposited into the Fund and subsequently allocated to cover certain Government expenses explicitly enumerated in the statute. This section of the implementing bill makes conforming amendments to the Treasury Forfeiture Fund regarding the payment of claims against Customs Service employees. Section 685 also permits, but does not require (as does current law), that excess monies in the Fund be invested in U.S. obligations.

Section 686: Amendments to the revised statutes of the United States

Section 4197 of the Revised Statutes, as amended (46 U.S.C. App. 91) provides the vessel clearance requirements for any vessel bound to a foreign port. Section 686 of the implementing bill amends section 4197 by consolidating the provision relating to vessel clearance and the departure provision of the permit-to-proceed requirements now found in section 443 of the Tariff Act of 1930 and 46 U.S.C. App. 313. Section 4197 will continue to contain the basic requirements for clearance and will be the counterpart to the basic vessel entry statute (section 434 of the Tariff Act of 1930, as amended). Penalties for violations of section 4197 will be provided in section 436 of the Tariff Act of 1930.

Section 686 of the implementing bill also provides that a vessel departing from a port or place in the United States bound outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea will be required to obtain Customs Service clearance. Furthermore, this section will give the Secretary authority to prescribe by regulation the manner in which clearance is to be obtained, including the documents, data, or information which must be submitted or electronically transmitted to obtain the clearance. This section will continue to permit, under certain circumstances, the granting of clearance before all of the requirements for clearance have been complied with. This section also authorizes the Customs Service to permit clearance to be obtained outside a designated port of entry.

This section also includes amendments to sections 2793, 3126, 3127, 4136, and 4336 of the Revised Statutes, as amended, that delete obsolete portions of those provisions. These sections contain various provisions relating to the entry and clearance of vessels.

Section 687: Amendments to title 18, United States Code

18 U.S.C. 965(a) imposes certain requirements on masters of vessels in connection with the delivery of cargo during times of war when the United States is a neutral party. Section 687 of the implementing bill adopts conforming amendments required by enactment of this legislation, along with amendments that correct outdated provisions.

Section 688: Amendment to the act to prevent pollution from ships

Current law (33 U.S.C. 1908(e)) authorizes the Secretary of the Treasury to revoke certain clearance and permit rights for ships subject to the MARCOL Protocol found to be liable for pollution-related violations. Section 688 of the implementing bill provides technical amendments required by this legislation, as well as amendments that correct outdated provisions.

Section 689: Miscellaneous technical amendments

Section 689 adopts conforming amendments and makes technical changes to the Act of October 3, 1913 (19 U.S.C. 128 and 19 U.S.C. 131) and to the Act of August 5, 1935 (19 U.S.C. 1704). These Acts contain various provisions regarding entry of foreign vessels and goods imported by such vessels.

The Customs Service is authorized, under the Act of November 6, 1966 (46 U.S.C. App. 817d(e) and 817(e)), to refuse departure or clearance for vessels that are not in compliance with provisions governing the financial responsibility of owners and charterers for death or injury to passengers or other persons and for indemnification of passengers for non-performance of transportation. Section 689 adopts necessary conforming amendments and amendments to correct outdated provisions.

Section 690: Repeal of obsolete provisions of law

This section of the implementing bill repeals a number of obsolete provisions of law.

Section 691: Reports to Congress

In order to address concerns with current compliance levels and the potential adverse impact that improved facilitation could have on the compliance efforts of the Customs Service, section 691 requires the Secretary of the Treasury to submit to the Congress reports concerning the collection of duties imposed under the antidumping and countervailing duty laws for entries liquidated after the effective date of this legislation and the total amount of Central Examination Stations fees collected nationwide annually and on the variations in such fees among Customs districts.

This section of the implementing bill also requires the Secretary of the Treasury to establish a Customs Compliance Program to assess the level of compliance with the laws enforced by the Customs Service. The Committee believes that compliance monitoring is best achieved by creating an objective, statistically based method of measurement. The Commissioner of Customs will also be required to initiate a compliance review of courier services operating under Part 128 of Title 19 of the Code of Federal Regulations and submit a report to the Congress on the results of the review. It is the Committee's intention that this review focus exclusively on the activities of the "on-board" couriers since there have been allegations of questionable compliance with the regulations.

Section 692: Effective date

Section 692 provides that this title shall take effect on the date of the enactment of the Act.

As a final matter, the Committee notes that there have been complaints from brokers that they do not get a fair and impartial hearing at the Headquarters level in broker penalty and liquidated damages claims. It is the Committee's intent that the Customs Service will continue its study of the procedures relating to these claims, especially with regard to the issue of the sufficiency of due process.

STATEMENT OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS ON S. 1627, THE NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT (NAFTA)

On November 18, 1993, the Committee on Governmental Affairs voted unanimously to report out, without recommendation, Section 381, Subtitle G of Title III of S. 1627—legislation to implement the North American Free Trade Agreement (NAFTA).

Section 381 makes the necessary changes to U.S. law to implement Chapter Ten of NAFTA on government procurement. This Chapter requires the U.S., Canada, and Mexico to eliminate many "buy national" restrictions on the purchases by their Federal governments of goods and services supplied by North American firms. The Chapter seeks to harmonize the respective procurement systems of the three nations; to expand the number of governmental and quasi-governmental entities covered; to establish a dollar threshold for application of the Agreement; to promote transparency, non-discriminatory treatment, and the redress of grievances in the procurement systems of the signatory nations; and to prohibit the use of "offsets" in the evaluation or award of contracts.

Chapter Ten allows the U.S. certain exceptions from coverage of its provisions. U.S. small business and minority preferences will continue to apply. Department of Defense purchases for national security reasons, Department of Agriculture farm support and human feeding programs, state and local government procurements, and foreign assistance purchases by the Agency for International Development—all are exempt from the requirements of the Chapter.

The Committee does have some concerns over Chapter Ten—particularly over whether the Chapter's provisions have enough flexibility to accommodate possible changes in the U.S. procurement system to streamline, simplify and make more efficient its operation. Also, advances in technology, particularly advances in information management and communications technology, could profoundly affect the procurement systems of each of the three countries. The Committee is concerned that the implementation of Chapter Ten might impede or restrict the integration of new technologies into the U.S. procurement system that would substantially improve its effectiveness and efficiency.

On October 25, Chairman John Glenn and Ranking Member William Roth wrote Ambassador Kantor raising these general concerns. More specifically, the letter pointed out the how Committee's legislative efforts to streamline Federal procurement procedures for purchases under $100,000 might conflict with the $50,000 threshold level proposed in NAFTA. Further, the letter posed the prospect of whether the 40 day waiting period put forth in Article 1012 of Chapter Ten would prevent the U.S. government from moving to an electronic data interchange system whereby decisions on the solicitation of bids and awarding of contracts would be made very quickly.

On November 11, Ambassador Kantor wrote back to Senators Glenn and Roth to address the issues raised in their letter. His response asserted USTR's belief that Chapter Ten's provisions, as well as those in the implementing legislation, excluding U.S. small business and minority preferences from coverage would also encompass a larger small purchases threshold needed to streamline Federal procurement.

The USTR letter, however, notes, "we recognize that some of the procedures in Chapter Ten will stand in the way of electronic tendering." In this regard, Ambassador Kantor pledges to work closely with the Administrator of the Office of Federal Procurement Policy and respective Canadian and Mexican officials to ensure that there is

enough flexibility to permit technological advances in the U.S. government procurement system, consistent with the express terms of Article 1024 (5) ("The Parties shall undertake further negotiations, to commence no later than one year after the date of entry into force of this Agreement, on the subject of electronic transmission."). The Committee expects a good faith effort by USTR in this regard, as well as to be kept fully and currently informed on the progress of these deliberations.

STATEMENT OF THE COMMITTEE ON FOREIGN RELATIONS ON S. 1627—THE NORTH AMERICAN FREE TRADE AGREEMENT ACT

INTRODUCTION

On November 4, 1993, S. 1627—the North American Free Trade Agreement Implementation Act was introduced by Senator Mitchell, for himself and Senator Dole (by request). S. 1627 was jointly referred to six committees—Finance; Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Government Affairs; the Judiciary; and Foreign Relations.

S. 1627 was referred to the Committee on Foreign Relations because of provisions contained in Subtitle D—Implementation of NAFTA Supplemental Agreements. This subtitle provides the necessary authority for the United States to participate in the North American Agreement on Labor Cooperation, and the North American Agreement on Environmental Cooperation, the so called "Side Agreements" that were negotiated by the Clinton Administration to address concerns related to labor and the environment.

It also contains provisions which will enable the United States to participate in the Border Environmental Cooperation Commission and the North American Development Bank—two organizations established by the "November 1993 Agreement Between the United States of America and the Government of the United Mexican States Concerning the Establishment of A Border Environmental Cooperation Commission and a North American Development Bank".

COMMITTEE ACTION

On October 27, 1993, in anticipation of the referral of S. 1627, The Committee on Foreign Relations held a hearing on NAFTA, the Supplemental Agreements and the foreign policy implication of U.S. participation in NAFTA and related agreements. The following witnesses provided testimony before the committee: Deputy Secretary of State Clifton Wharton; Assistant Secretary of Treasury for International Affairs Jeffrey Shafer; Deputy Trade Representative Rufus Yerxa; William J. Cunningham, Legislative Representative, AFL-CIO; Stewart Hudson, Legislative Representative, International Programs Division, National Wildlife Federation; and Cameron Duncan, Coordinator of Trade and Environmental Policy, Greenpeace.

On November 4, 1993, S. 1627 was referred to the Committee on Foreign Relations. On November 18, 1993 the Committee reported S. 1627 favorably by a vote of 15 to 2; with Senators Pell, Biden, Dodd, Kerry, Simon, Robb, Mathews, Lugar, Kassebaum, Pressler, Murkowski, Brown, Jeffords, Coverdell, and Gregg voting aye; and Senators Feingold and Helms voting no.

COMMITTEE COMMENTS

The Committee on Foreign Relations focused on two principle areas during consideration of S. 1627; first, on the specific provisions contained in Subtitle D of the bill (which fall within the jurisdiction of the committee); and second, more broadly on the foreign policy implications of United States' participation in the NAFTA. The Committee believes that the Supplemental Agreements are an important and integral component of the NAFTA agreement. Finally, the Committee believes that the foreign policy interests for supporting NAFTA are compelling.

NAFTA: Supplemental Agreements on Labor and the Environment

The NAFTA Supplemental Agreements on Labor and the Environment were signed by the President on September 14, 1993. These agreements encourage Mexico, the United States, and Canada ("the Parties") to address labor and environmental issues in a cooperative and transparent process, and provide for strong dispute settlement procedures to promote improved enforcement of national standards. Thus, not only will NAFTA boost U.S. exports and its position in Latin America, but it will also ensure that American labor and environmental laws are not degraded, and that Mexican enforcement of its labor and environmental standards will improve significantly.

North American Agreement on Labor Cooperation

The North American Agreement on Labor Cooperation (NAALC) is designed to promote cooperation between the Parties and to ensure effective enforcement of labor laws. It creates a new Commission on Labor Cooperation, headed by a Council consisting of the labor ministers of each country. The Council is intended to be a forum for cooperation on issues such as occupational safety, child labor, minimum wages, and resolution of labor disputes. The Council will be supported by an independent Secretariat, headed by an Executive Director appointed by consensus of the Parties for a fixed term.

The Secretariat is charged with investigating and reporting on a range of labor issues, including labor law enforcement and labor market conditions. These reports will be publicly available. In addition, based on the findings of Council consultations, any member of the Council can request the convening of an independent committee of experts to investigate evidence of non-enforcement of labor laws. If a Party believes that another country is exhibiting a persistent pattern of non-enforcement in the areas of worker safety, child labor, and minimum wage law, it may invoke dispute resolution procedures, which may result in the imposition of fines or trade sanctions.

North American Agreement on Environmental Cooperation

The environmental supplemental agreement—the North American Agreement on Environmental Cooperation (NAAEC)—is designed to provide incentives for enforcement of national environmental regulations. It creates a new Commission on Environmental Cooperation, whose Council will consist of the top environmental officials of the three countries. A Joint Advisory Committee, consisting of nongovernmental organizations, will advise the Council. The heart of the Commission will be its Secretariat, whose Executive Director, while under the direction of the Council, will enjoy considerable independence.

The objectives of the Commission are to promote cooperation among the members; improve public access to information on hazardous materials; consider trans-boundary environmental problems; address public concerns about NAFTA's effects on the environment; and assist the dispute settlement panels. The Secretariat will produce fact-finding reports in response to public submissions. The Parties will discuss these reports within the forum of the Council. If a Party feels that such consultations have failed to address a pattern of non-enforcement, it may request the creation of a dispute settlement panel, possibly leading to the imposition of fines or trade sanctions.

Border Environment Commission and the North American Bank

In addition to the labor and environmental commissions established pursuant to the so call Side Agreements, the Governments of Mexico and the United States have also agreed on arrangements to assist communities on both sides of the border in coordinating and carrying out environmental infrastructure projects. This new agreement furthers the goals of the North American Free Trade Agreement and the North American Agreement on Environmental Cooperation.

The agreement provides for the establishment of two institutions:

(1) a North American Development Bank (NADBank), capitalized in equal shares by the United States and Mexico, that will provide some $2 billion or more in new financing to supplement existing sources of funds and foster the expanded participation of private capital; and

(2) a Border Environment Cooperation Commission (BECC) to assist local communities and other sponsors in developing and implementing environmental infrastructure projects, and to certify projects for NADBank financing.

The agreement provides up to 10 per cent of the NADBank capital to be used for community adjustment and investment programs in support of the purposes of the NAFTA.

The new agreement represents a significant additional commitment by Mexico and the United States to implement effective solutions to the environmental problems in the border region. It embodies the basic principles for coordinating and financing environmental infrastructure projects set forth by the two governments during their meeting on environmental cooperation in August, 1993. The two new institutions will help marshall resources from all sources, both public and private, to solve the environmental problems of the border region. The agreement is contingent on the entry into force of the North American Free Trade Agreement.

Border Environment Cooperation Commission

The Border Environment Cooperation Commission (BECC) will work with the affected states and local communities and nongovernmental organizations in developing effective solutions to environmental problems in the border region.

The BECC will provide technical and financial planning assistance for environmental infrastructure projects so as to enhance the environment in the border region for the well-being of the people on both sides of the border. The BECC will not itself develop or manage projects. Rather, it will assist, with their concurrence, states and localities and private investors proposing environmental infrastructure projects in coordinating environmental infrastructure projects; preparing, developing, and implementing projects; assessing their technical and financial feasibility; evaluating their social and economic benefits; and arranging public and private financing for such projects.

The BECC will certify projects to the NADBank and may do so for other financial institutions that elect to use the BECC's certification. The BECC may certify any project

that meets the technical, environmental, and financial criteria applied by it. To be eligible for certification, projects shall be required to observe the environmental laws for the place where the project is to be located or carried out.

For a project with significant transboundary effects, an environmental assessment shall be presented and the Board shall determine, in consultation with affected states and localities, that the project meets the necessary conditions to achieve a high level of environmental protection for the affected area.

The BECC has no sovereign power. It can only offer its services to state and local bodies and assist them in cooperative activities. The BECC and the International Boundary and Water Commission will cooperate with each other in planning, developing, and carrying out border sanitation and other environmental activities.

The BECC will have a binational board of directors and decision-making procedures structured to ensure that the views of affected states, local communities, and members of the public will be fully taken into account. Each country shall have five members on the board of directors. Individuals selected to serve on the board shall have expertise in environmental, engineering, economic or financial matters. The board will be composed of the following members from each country:

The senior environmental official of the government (the Administrator of the Environmental Protection Agency for the United States and the Secretario de Desarollo Social for Mexico);

The commissioner of the International Boundary and Water Commission;

A representative from a border state;

A representative from a locality in the border region;

A member of the public who resides in the border region.

The BECC will be required to consult with an Advisory Council of 18 members—nine from each country—that will include representatives of state or local governments or community groups from each of the border states, and members of the public, including nongovernmental organizations. It will also establish procedures for public participation, including written notice and an opportunity to comment on general guidelines and on applications for certification of projects. The Commission's annual report will be made available to the public.

The BECC will be able to mobilize financing for environmental infrastructure projects from various sources, including the North American Development Bank; direct government support, such as grants, loans, and guarantees from federal, state and local governments; or the private sector. It will seek to mobilize private capital to the maximum extent possible in order to leverage government financing. Arrangements for servicing the debt will encourage reliance on fees paid by those causing pollution and those benefitting from the improved environment.

North American Development Bank

The North American Development Bank (NADBank) will be capitalized and governed by the two countries. Its purpose is to finance projects certified by the BECC. Based on its capitalization, it is envisaged that the NADBank will be able to make some $2 billion or more in loans and guarantees, with an upper limit of $3 billion.

The NADBank will use its own capital (contributed equally by the United States and Mexico), funds raised by it in the financial markets, and other available resources to finance public and private investment in environmental infrastructure projects; and encourage and supplement private investment in environmental infrastructure projects.

The NADBank will be governed by a six-member board, with an equal number of representatives from each country. The Bank will evaluate the financial feasibility of projects certified by the BECC and provide financing as appropriate.

Initial paid-in capital will be $450 million, with callable capital of $2.55 billion.

The United States and Mexico also have agreed that up to 10 per cent of the resources of the Bank will be made available, on an equal basis, for community adjustment and investment programs in both countries, which need not be in the border region. Each government will develop criteria and procedures for directing these resources through existing government programs.

The NADBank is intended to supplement existing sources of financing. It is designed to facilitate, not impair, the ability of governments and investors to seek financing from other institutions.

Foreign Policy Implications of NAFTA

The Committee gave careful consideration to the foreign policy implications of NAFTA and concluded that passage of NAFTA is crucial to U.S. foreign policy interests in Latin American and in the world as a whole.

The Committee believes that these interests were summarized best by Deputy Secretary of State Clifton Wharton during his appearance before the Committee on October 27, 1993. Deputy Secretary Wharton made the following points:

NAFTA puts aside the historical mistrust between the United States and Mexico, and solidifies a new relationship based on mutual respect and shared opportunity.

Passage of NAFTA will signal American support for the process of economic and political reform in neighboring Mexico. Defeat of NAFTA would deal a serious blow to those in Mexico who support continued liberalization.

In addition, passage of NAFTA will send a positive signal to those democratic leaders throughout Latin America and the Caribbean who have liberalized their economic systems and opened their markets to U.S. exports.

Although NAFTA is not an exclusionary bloc, improved economic cooperation in this hemisphere will enhance our negotiating position in the GATT Uruguay Round talks. This could provide the impetus for a breakthrough in the stalled negotiations.

Passage of NAFTA will establish the United States as the leader of a global movement toward economic cooperation and openness. International respect for the President's foreign policy leadership will increase, making other countries more receptive to U.S. foreign policy initiatives.

The Committee fully associates itself with these findings and believes that the Senate as a whole should give them serious consideration during its deliberations of S. 1627.

SECTION BY SECTION ANALYSIS

The following is a section by section analysis of Subtitle D—Implementation of NAFTA Supplemental Agreements.

Subtitle D—Implementation Of NAFTA Supplemental Agreements

Part 1—Agreements Relating To Labor And Environment

Sec. 531. Agreement on labor cooperation

Section 531 of the bill authorizes U.S. participation in the Commission for Labor Cooperation. This section would allow the President to designate the Commission and its employees to receive appropriate privileges and immunities, as required by the North American Agreement on Labor Cooperation, pursuant to the International Organizations Immunities Act, 22 U.S.C. 288 et seq.

Section 531 also authorizes $2,000,000 to be appropriated to the President for fiscal years 1994 and 1995 for payment of the U.S. assessed contributions to the Commission. It also clarifies that funds appropriated pursuant to the authorization are in addition to funds that may otherwise be available for the same purpose, such as funds appropriated to the contributions to the International Organization account or the International Conferences Contingencies account in the annual Department of State appropriations acts.

Sec. 532. Agreement on environmental cooperation

Section 532 authorizes U.S. participation in the Commission for Environmental Cooperation. This section would allow the President to designate the Commission and its employees to receive appropriate privileges and immunities, as required by the North American Agreement on Environmental Cooperation.

Section 532 also authorizes $5,000,000 to be appropriated to the President for fiscal years 1994 and 1995 for payment of the United States assessed contributions to the Commission for Environmental Cooperation. It contains the same clarification regarding funds appropriated pursuant to the authorization as set out in section 531.

Sec. 533. Agreement on Border Environmental Cooperation Commission

Section 533 authorizes U.S. participation in a bilateral Border Environmental Cooperation Commission ("BECC") with Mexico. The BECC will marshall funds, some of which will be provided through the North American Development Bank ("NADBank") as provided in Section 544, for environmental projects in the U.S.-Mexican border area. The BECC will initially give preference to waste water, water treatment and solid waste projects. Such facilities will be important to improve environmental conditions in the border area and to ensure that increased trade generated by the NAFTA does not adversely affect environmental quality in that region. The BECC will certify that projects seeking funding by the NADbank or other sources of financing comply with necessary environmental and financial standards.

Section 533 allows the President to designate the members of the BECC and its employees to receive appropriate privileges and immunities. The BECC's office will be located in the border region, along with a proposed EPA border office.

Section 533 authorizes $5,000,000 to be appropriated to the President for each fiscal year beginning with fiscal year 1994 for payment of U.S. assessed contributions to the BECC. It contains the same clarification regarding appropriated funds as set out in sections 531 and 532.

Section 533 also provides that for the purpose of any civil action brought by or against the BECC, the BECC shall be deemed to be an inhabitant of the federal judicial district in which the BECC's principal office in the United States, or its agency appointed for the purpose of accepting service or notice of service, is located. Any action to which the BECC is a party will be deemed to arise under the laws of the United States, and the federal district courts shall have original jurisdiction over such actions. The section

specifies that state court actions against the BECC may be removed to federal court. Section 541 contains an analogous provision for the NADBank.

Part 2—North American Development Bank and Related Provisions

Sec. 541. North American Development Bank

Section 541 authorizes the President to accept U.S. membership in the NADBank and authorizes the Secretary of the Treasury to subscribe to the U.S. shares of the capital stock of the NADBank.

Section 541(b) provides that any such subscription will be effective only to such extent or in such amounts as are provided in advance in appropriations acts. This section also authorizes the appropriation of $1,500,000,000 (representing $225,000,000 in paid-in capital and $1,275,000,000 in callable capital) for the U.S. subscription to its shares of the NADBank. In addition, section 541(b) provides that, for fiscal year 1995, the Secretary of the Treasury will pay to the NADBank out of any sums in the Treasury not otherwise appropriated the sum of $56,250,000 for the paid-in share portion of the U.S. share of the capital stock of the NADBank, and will subscribe to the callable portion of the U.S. share of the capital stock of the NADbank in an amount not to exceed $318,750,000.

The NADBank will be governed by a six-member board, with three members appointed by Mexico and three by the United States.

Section 541(c) provides that the U.S. board members will not be entitled to any salary or other compensation from the bank or the United States for services as a board member.

Section 541(d) provides that the provisions of the Bretton Woods Agreements Act relating to the National Advisory Council on International Monetary and Financial Problems will apply with respect to the NADBank to the same extent as with respect to the World Bank and the International Monetary Fund.

Section 541(e) provides that, unless authorized by law, the United States may not subscribe to additional shares of stock to the NADBank, vote for or agree to any amendment of the agreement establishing the NADBank that would increase the obligations of the United States or change the purpose or functions of the NADBank, or make a loan or provide other financing to the NADBank.

Section 541(f) provides that any Federal Reserve bank that is requested to do so by the NADBank must act as its depository or as its fiscal agent, and that the Board of Governors of the Federal Reserve System will supervise and direct the carrying out of these functions by the Federal Reserve banks.

Section 541(h) extends to the NADBank certain exemptions from U.S. securities laws that have been given in the past to the various multilateral development banks, and establishes related reporting requirements.

Sec. 542. Status, immunities, and privileges

Section 542 provides that the status, privileges and immunities provisions of the agreement establishing the NADBank will have full force and effect in the United States.

Sec. 543. Community adjustment and investment program

Section 543(a) of the bill provides that the President may enter into an agreement with the NADBank that facilitates implementation by the President of a community adjustment and investment program in support of the NAFTA pursuant to the agreement establishing the NADBank. The agreement provides that the total amount of loans, guarantees and grants provided for community adjustment and investment must not exceed ten percent of the sum of the paid-in capital actually paid to the bank by the United States and the amount of callable shares for which the United States has an unqualified subscription.

In furtherance of this program, the President is authorized to receive from the NADBank ten percent of the paid-in capital actually paid to the bank by the United States and to transfer those funds to federal agencies that make or guarantee loans to pay the subsidy and, as appropriate, other costs associated with such loans or guarantees.

As specified in section 543(a)(4), such loans or guarantees will be subject to the restrictions and limitations that apply to the particular agency's existing loan or guarantee program, except that any funds transferred to an agency will be in addition to the amount of funds authorized in any appropriation act to be expended by that agency for its program.

Section 543(a)(5) provides that the President will establish guidelines for the loans and loan guarantees to be made by federal agencies under the community adjustment and investment program and endorse the grants and any loans or guarantees made by the NADBank for the community and investment program pursuant to the terms of the Border Environmental Cooperation Agreement.

Section 543(b) provides for the establishment of a public advisory committee in accordance with the Federal Advisory Committee Act. The committee will be composed of representatives of community groups whose constituencies include low-income families; nongovernmental organizations; business interests; and other appropriate entities, to be appointed by the President.

As set forth in section 543(b)(3), the advisory committee will provide advice to the President regarding the establishment of the community adjustment and investment program, including advice on the guidelines for loans and guarantees to be made under the program, advice on identifying the needs for adjustment assistance and investment in support of the goals and objectives of the NAFTA, taking into account economic and geographic considerations, and advice on such other matters as may be requested by the President. The advisory committee will also review, on a regular basis, the operation of the community adjustment and investment program and provide the President its conclusions.

Section 543(b)(4) provides, among other things, for the reimbursement of advisory committee members for travel, per diem and other necessary expenses incurred in the performance of their duties, and for the provision of a Secretariat and other services for the committee by appropriate federal agencies.

Under section 543(c), the President will appoint an ombudsman to provide the public with an opportunity to participate in the implementation of the community adjustment and investment program. The ombudsman will establish procedures for receiving comments from the public on the operation of the program, and will provide the President with summaries of those comments. The ombudsman will also perform an independent inspection and audit of the operation of the program and provide the President with the conclusions of the investigation and audit.

STATEMENT OF THE COMMITTEE ON THE JUDICIARY—SUMMARY OF SUBTITLE C—INTELLECTUAL PROPERTY PROVISIONS OF S. 1627, THE NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

1. TREATMENT OF INVENTIVE ACTIVITY

Section 331 of the bill amends 35 U.S.C. 104 to make it consistent with the requirements of Article 1709(7)of the Agreement, which requires patents to be available without discrimination as to the territory where the invention was made. Under current section 104, evidence of inventive activity outside the United States cannot be introduced in U.S. judicial or administrative proceedings for purposes of establishing the date of invention. Section 331 amends section 104 to provide that evidence of inventive activity in Mexico or Canada may be introduced for such purpose.

Concerns were raised that U.S. firms may be unable to probe and challenge adequately such evidence because they cannot obtain other information from Mexico or Canada relevant to the date of invention. The bill guards against such a possibility by including a provision that enables a party in such a proceeding to demonstrate that relevant information exists in Mexico or Canada and has been requested, that the information has not been made available under the laws and procedures of such country, and that the information would be "discoverable" in the United States. If the party can make this showing, the decision maker must draw appropriate inferences or take any other permissible action in favor of the party that requested the information in the proceeding. In deciding what inferences are appropriate, the decision maker should take into account all relevant facts, including the importance of the information that has not been made available, whether the information is in control of the party seeking to establish a date of invention prior to the filing date, and any other pertinent factor.

Consistent with the national treatment provisions of Chapter 17 of the Agreement, the bill extends the new section 104 provisions for those serving in the U.S. armed services to those serving in the armed services of other NAFTA countries.

2. RENTAL RIGHTS IN COMPUTER PROGRAMS AND SOUND RECORDINGS

Articles 1705(2) and 1706(1) require NAFTA governments to provide rental rights to authors of computer programs and producers of sound recordings; respectively. Current U.S. law provides rental rights for such works. Section 332 of the bill eliminates a "sunset" provision now contained in the Record Rental Amendment of 1984 so that producers of sound recordings will have rental rights on a permanent basis.

3. NON-REGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS

Under the current version of the Trademark Act of 1946, a mark is not registrable on the principal register if it is "primarily geographically descriptive" or "deceptively misdescriptive" unless the mark has become distinctive of the applicant's goods. Marks that are considered "primarily geographically descriptive" or "deceptively misdescriptive" are registrable on the supplemental register. Registration on the supplemental register may, in time, facilitate a showing of "distinctiveness" and, thus, qualify for registrability on the principal register.

Paragraphs two and three of Article 1712 require NAFTA governments to refuse to register marks that are deceptively misdescriptive in respect of geographic origin regardless of whether the mark has acquired distinctiveness. By contrast, the article does not prohibit the registration of primarily geographically descriptive marks.

In light of this difference in treatment, section 333 of the bill creates a distinction in subsection 2(e) of the Trademark Act between geographically "descriptive" and "misdescriptive" marks and amends subsections 2(f) and 23(a) of the Act to preclude registration of "primarily geographically deceptively misdescriptive" marks on the principal and supplemental registers, respectively. The law as it relates to "primarily geographically descriptive" marks would remain unchanged.

The bill contains a grandfather clause that covers U.S. marks containing geographical terms that are in use or registered prior to the date of enactment.

4. MOTION PICTURES IN THE PUBLIC DOMAIN

Annex 1705.7 of the Agreement requires the United States, subject to Constitutional and budgetary considerations, to restore copyright protection to certain motion pictures. These are films that fell into the public domain in the United States between January 1, 1978, and March 1, 1989, because of the failure of the motion picture to display a copyright notice as required under Title 17 of the United States Code as it existed prior to U.S. accession to the Berne Convention.

The obligation applies to all motion pictures produced in Mexico and Canada during that period and is not limited to motion pictures produced by nationals or residents of those countries. However, the commitment extends only to motion pictures—not to all audiovisual works.

Section 334 of the bill re-establishes copyright protection for such films by adding new subsection 104A to Title 17 of the U.S. Code. The new section covers only motion pictures produced between January 1, 1978, and March 1, 1989, the period during which section 405 provided a limited exception to the required use of the copyright notice to maintain protection.

Because certain related works typically are first published—and protected under copyright—along with the motion picture to which they pertain, Annex 1705.7 arguably requires that protection for related works be restored along with the motion pictures covered by the Annex. Accordingly, proposed subsection 104A provides copyright protection for such works if they fell into the public domain along with the relevant motion pictures. These works include the original music or dramatic text embodied in the sound track as well as the literary work on which the picture was based.

The bill takes into account U.S. Constitutional and budgetary considerations by providing notice to persons who are currently using the works covered by proposed subsection 104A(a) and by giving them a reasonable period in which to use or dispose of their stock. To this end, section 104A(b) of the bill provides that copyright owners of qualifying works and films must file a statement with the Copyright Office within one year of the effective date of the NAFTA providing notice that their works will no longer be in the U.S. public domain. Shortly following that period, the Copyright Office will announce in the Federal Register that those works will be protected pursuant to subsection 104A(a).

In addition, section 104A(c) of the bill provides that persons who are copying, performing or selling copies of such works may continue such activities for a period of one year following publication of the Federal Register notice. This "exhaustion of stock" provision applies only to copies produced or acquired before the enactment of this legislation.

CHAPTER SIXTEEN: TEMPORARY ENTRY FOR BUSINESS PERSONS

As provided in Article 1603 and Annex 1603, each NAFTA country will grant temporary entry to four categories of business persons:

Business visitors engaged in international business activities related to research and design, growth, manufacture and production, marketing, sales, distribution, after-sales service, and other general services, reflecting the activities in a complete business cycle;

Traders who carry on substantial trade in goods or services between their home country and the country they wish to enter, as well as investors seeking to commit a substantial amount of capital in that country, provided that such persons are employed or operate in a supverisory or executive capacity or one that involves essential skills;

Intra-company transferees employed by a company in a managerial or executive capacity or one that involves specialized knowledge and who are transferred within that company to another NAFTA country; and

Certain categories of professionals, set out in Appendix 1603.D.1, who meet minimum educational requirements or possess alternative credentials and who seek to engage in business activities at a professional level.

CHAPTER NINETEEN: DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

SUMMARY OF NAFTA PROVISIONS

Chapter Nineteen largely duplicates, on a trilateral basis, procedures currently in effect between the United States and Canada under the CFTA for binational panel review of final antidumping ("AD") and countervailing duty ("CVD") determinations and for notification and review of trade law amendments. Except for certain innovations introduced in the NAFTA that are described below, the Statement of Administrative Action accompanying the CFTA Implementing Act, H.Doc. 100-216, 100th Cong., 2d Sess. 258-89 (1988), fully describes the panel system that will be established under the NAFTA.

Binational Panel Review.—The centerpiece of Chapter Nineteen of the NAFTA, like Chapter Nineteen of the CFTA, is the procedure described in Article 1904 whereby independent binational panels, composed of judges and experts from the two NAFTA countries involved, will review final AD and CVD determinations made by the relevant administering authorities in one country with respect to products from one of the other two countries. Nothing in Article 1904 or any other provision of Chapter Nineteen restricts in any way the right of a domestic industry to seek redress from unfair trading practices through national AD and CVD laws.

Article 1904 contains a few significant procedural changes from the comparable CFTA provision. Notably, the panels will continue to be binational in composition. One important improvement is the NAFTA's preference for appointing judges and former judges as panelists. Annex 1901.2 of the NAFTA provides that the roster for binational panels "shall include judges and former judges to the fullest extent practicable."

There are several advantages to having judges and former judges serve as panelists. For example, the participation of panelists with judicial experience would help to ensure that, in accordance with the requirement of Article 1904, panels review determinations of the administering authorities precisely as would a court of the importing country by applying exclusively that country's AD and CVD law and its standard of review. In addition, the involvement of judges in the process would diminish the possibility that panels and courts will develop distinct bodies of U.S. law.

For these reasons, the United States hopes not only to include judges and former judges on the roster to the fullest extent practicable as required by Annex 1901.2, but also to appoint judges and former judges to individual panels and committees whenever they are willing and available to serve.

To implement the new Annex 1901.2 obligation most effectively, section 402 establishes two separate procedures: the first for inclusion on the roster and appointment to panels of sitting Article III judges and the second for inclusion on the roster and appointment to panels of retired judges, former judges, and administrative law judges, as well as panelists who do not have judicial experience.

Sections 402(a) and 402(c) set forth procedures for the selection of prospective panelists and committee members other than sitting Article III judges. This selection system will operate substantially as it has under the CFTA. USTR will be required to submit the preliminary and amended candidate lists submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate along with a statement of professional experience for each candidate. The statement will, in general, consist of: a resume or comparable document that includes a list of the candidate's publications, and, in the case of a practicing attorney or consultant, a list of the clients represented by the candidate or the candidate's firm if there could be a conflict or the appearance of a conflict of interest.

The purpose of this requirement is to provide basic background information on the prospective candidates to the appropriate Committees in order to improve the consultative process established in the statute and to avoid conflicts and appearances of conflicts of interest. The requirement is not intended to establish a confirmation procedure or to discourage the participation of potential panelists.

Sections 402(a) and 402(b) establish a new procedure for the inclusion of sitting Article III judges on Chapter Nineteen rosters, notification of the rosters to Congress and appointment of such judges to panels or committees in specific cases. This procedure takes into account the special status of sitting Article III judges as well as other considerations (including their existing caseloads) and makes participation by sitting judges entirely voluntary.

Section 402(b) requires the U.S. Trade Representatives to adhere to the following procedures in including sitting Article III judges on rosters and appointing such judges to serve on specific panels or committees. First, the USTR will consult with the Chief Judges of the Federal circuits, or their designees, to discuss Article III judges' interest in and availability for sitting on binational panels, ECCs and special committees. If a Chief Judge determines that it is appropriate for one or more judges within that circuit to be included on a roster, the Chief Judge will submit a list of those judges to the Chief

Justice of the United States, who may submit the list to the USTR. It will be the decision of the Chief Justice of the United States whether the names of any judges from a federal court should be submitted to the USTR for inclusion on the roster.

The USTR will include those judges on a roster and provide a copy of the list of such judges to the Senate and House Judiciary Committees as well as the House Ways and Means and Senate Finance Committees at the time USTR submits final candidate lists and final forms of amendment to the appropriate committees. Thereafter, at the time the USTR proposes to include individual sitting Article III judges on a binational panel, ECC or special committee, USTR will consult with those judges to ascertain whether they are available to be appointed to the specific panel or committee.

Consistent with Annex 1901.2 and the procedures established under section 402 of the bill, USTR hopes to name as many sitting Article III and other judges as possible to the roster. Other judges that may be placed on the roster by virtue of their being included on a final candidate list in accordance with the procedures described at sections 402(a) and 402(c) include: retired federal judges under 28 U.S.C. 371(a); administrative law judges; and former judges. To be eligible for placement on the roster, these judges, like other candidates, must have general familiarity with international trade law, which includes relevant experience in administrative law or international commercial law matters. All judges are presumed to satisfy the other criteria set forth in Annex 1901.2 by virtue of their status as judges.

Section 402(a)(2) of the bill prescribes that the USTR will appoint judges to serve on a particular panel unless, based on the procedures set out above, the USTR ascertains that judges are not available to serve. In requiring the USTR to appoint judges to serve as panelists where they are available, section 402(a)(2) takes into account the existing canons of the Code of Conduct for United States Judges. Under Canon 5G, federal judges may undertake responsibilities outside the scope of their judicial duties if Congress authorizes appointment of judges, so long as service would not, in the view of the judge appointed, interfere with the performance of judicial responsibilities or otherwise impair public confidence in their integrity or impartiality.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1627, the North American Free Trade Agreement Implementation Act.

Section 12(c) of the concurrent resolution on the budget requires a determination of any legislative proposal's effect on the deficit for fiscal years 1999 through 2003. CBO estimates that this bill would not increase the deficit over this period.

Enactment of S. 1627 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1627.

2. Bill title: North American Free Trade Agreement Implementation Act.

3. Bill status: As ordered reported by the Senate Committee on Finance on November 18, 1993.

4. Bill purpose: S. 1627 would approve the North American Free Trade Agreement (NAFTA) entered into on December 17, 1992, with the governments of Canada and Mexico. It would provide for tariff reductions and other changes in law related to implementation of the agreement. The bill also would create a transitional adjustment assistance program for affected workers, require the use of an electronic fund transfer system for collecting certain taxes, and increase certain customs user fees. It also would authorize appropriations for a number of agricultural and other programs.

5. Estimated cost to the Federal Government: The following tables summarize CBO's estimate of the budgetary impact of S. 1627. Table 1 shows the impact of the bill on direct spending and revenues. Table 2 details the estimated costs that depend on future appropriation actions.

TABLE 1.—CBO ESTIMATES OF CHANGES IN REVENUES AND DIRECT SPENDING ASSOCIATED WITH S. 1627

[By fiscal year, in millions of dollars][1]

	1994	1995	1996	1997	1998	Five-year total
CHANGES IN REVENUE (NET)						
Reduction in tariff rates	−214	−489	−547	−609	−672	−2,531
Electronic Federal tax deposit system:[2]						
On-budget	49	262	272	371	1,207	2,161
Off-budget	23	116	135	146	701	1,121
Customs enforcement initiative	17	22	22	23	23	107
Customs modernization provisions	−3	−3	−3	−3	−3	−15
CHANGES IN OUTLAYS						
Increases in customs fees (offsetting receipts)	−93	−203	−221	−241	0	−758
Increased spending for current trade adjustment assistance program[3]	10	25	25	20	25	105
New trade adjustment assistance benefits	(4)	7	8	9	9	33
Effects on agricultural price support programs	−64	−86	−66	−1	33	−184
North American Development Bank	0	54	2	0	0	56
Customs modernization provisions	−5	−5	−5	−5	−5	−25
EFFECT ON DEFICIT						
Net increase or decrease (−) in deficit:						
On-budget	−1	0	−1	0	−493	−495
Off-budget	−23	−116	−135	−146	−701	−1,121

[1] This table does not include any discretionary spending that would be associated with NAFTA

[2] Estimate provided by the Joint Committee on Taxation.

[3] Trade adjustment assistance (TAA) for training costs is currently limited by law to a maximum of $80 million a year. This estimate assumes that this cap is maintained. If it were raised or eliminated, CBO estimates that TAA costs resulting from NAFTA would be a total of $25 million higher over the 1994–1998 period than shown above.

[4] Less than $500,000.

TABLE 2.—CBO ESTIMATES OF AUTHORIZATIONS OF APPROPRIATIONS ASSOCIATED WITH S. 1627

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	Five-year total
Agriculture programs:						
Estimated authorizations	96	22	22	22	22	184
Estimated outlays	18	61	34	37	22	172
North American Development Bank:						
Estimated authorizations	0	0	56	56	56	168
Estimated outlays	0	0	56	56	56	168
Other authorizations:						
Estimated authorizations	21	16	11	11	11	70
Estimated outlays	16	18	10	11	11	66

TABLE 2.—CBO ESTIMATES OF AUTHORIZATIONS OF APPROPRIATIONS ASSOCIATED WITH S. 1627—Continued

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	Five-year total
Total authorizations:						
Estimated authorizations	117	38	89	89	89	422
Estimated outlays	34	79	100	104	89	406

Basis of estimate:

CHANGES IN REVENUES

Tariff Rate Reductions.—Under NAFTA, all tariffs on U.S. imports from Mexico would be eliminated by 2008. Tariffs would be phased out for individual products at varying rates according to one of six different timetables ranging from immediate elimination to elimination over 15 years for some goods. Based on the composition of imports from Mexico in 1991, tariffs would be eliminated on about 60 percent of dutiable goods on January 1, 1994, and tariff revenue would be reduced by about 65 percent in calendar year 1994. By 1998, duties on about 70 percent of goods that are currently subject to duty would be eliminated, and tariff revenue would be about 85 percent lower than under current law.

Goods currently afforded duty-free treatment under the generalized System of Preferences (GSP) would receive permanent duty-free treatment under NAFTA. Under current law, the GSP program is scheduled to expire after September 30, 1994. Therefore, this estimate includes the revenue loss from extending duty-free treatment to GSP goods imported from Mexico past the GSP's expiration date under current law.

CBO estimates that the provisions of NAFTA that reduce tariff rates would reduce revenues by $2.5 billion over 1994 through 1998, net of income and payroll tax offsets. This estimate is based on Census Bureau data for 1991 and 1992 on imports from Mexico. This estimate includes the effects of increased imports from Mexico that would result from the reduced prices of imported products in the U.S.—reflecting the lower tariff rates—and has been estimated based on the expected substitution between U.S. products and imports from Mexico. In addition, it is likely that some of the increase in U.S. imports from Mexico would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half of the increase in U.S. imports from Mexico would displace imports from other countries.

Electronic Federal Tax Deposit System.—The new federal tax deposit system would electronically transfer tax deposits to the Treasury, eliminating the need for banks to process paper coupons and checks. The change, which would be phased in gradually over several years, would allow deposits to be credited to the Treasury on the day of deposit instead of the day after deposit. Adoption of this system would not change the amount of taxes paid by taxpayers, but would shift the receipt by the Treasury of certain tax revenues from the beginning of one fiscal year to the end of the preceding year. The Joint Committee on Taxation has estimated that these changes would increase on-budget receipts by $2.2 billion and off-budget receipts by $1.1 billion over the fiscal year 1994 through 1998.

Customs Enforcement Initiative.—The bill would allow Customs Service auditors to access IRS income tax return information. This would allow auditors to use businesses' tax information on the valuation of imports and is expected to result in higher customs duty audit assessments. CBO estimates, net of income and payroll tax offsets, that the access to the information would result in increased receipts of $107 million over fiscal years 1994 through 1998.

Customs Modernization.—Title VI of S. 1627 would expand the base of goods eligible for customs duty drawbacks and would allow increased exemptions from duty on certain personal articles, decreasing customs duties by $7 million each year. Title VI also would require payment of interest on merchandise revaluations after entering an item through U.S. Customs, increasing receipts by $4 million each year. CBO estimates, net income and payroll tax offsets, these provisions would decrease receipts by $3 million each year.

CHANGES IN DIRECT SPENDING

Customs User Fees. S. 1627 would make several changes to user fees charged by the U.S. Customs Service, which are recorded in the budget as offsetting receipts. For the fiscal year 1994 through 1997 only, the current $5 passenger fee would be increased to $6.50 and the exemption granted to passengers arriving in the United States from Canada, Mexico, and the Caribbean would be removed. For fiscal years 1999 through 2003, customs user fees would be extended at the current $5 rate. (Under current law, these fees sunset at the end of fiscal year 1998.) CBO estimates that the $1.50 passenger fee increase and the removal of the exemption would result in additional fee collections of $758 million over the fiscal years 1994 through 1997.

Current Trade Adjustment Assistance (TAA) Program.—Under current law, the TAA program provides cash assistance and training to workers who can demonstrate that increased imports contributed importantly to the loss of their job. If NAFTA were to be approved, CBO estimates that approximately 4,500 additional workers annually for fiscal years 1995 through 1998 would become eligible for TAA. The additional workers would not qualify for TAA immediately because workers must exhaust their unemployment benefits prior to collecting TAA. The fiscal year 1994 estimate assumes approximately 1,000 workers would qualify for TAA, assuming that NAFTA becomes effective January 1, 1994. Under current law, TAA recipients are required to participate in job training unless they receive a waiver. Currently, about 60 percent of the recipients train and 40 percent receive waivers. The average training cost is approximately $4,000 per person. Based on an average cash benefit of $4,800, CBO estimates the additional TAA cash assistance would be $5 million in 1994 and $20 million each year for fiscal years 1995 through 1998, and we estimate the additional TAA training benefits would be $5 million in 1994 and $10 million each year for fiscal years 1995 through 1998, if all newly eligible workers were to receive their full training benefit.

Nevertheless, the TAA training is a capped entitlement. The training benefits are capped at $80 million in fiscal years 1994, 1995, 1996, and 1998. In fiscal year 1997, the cap on funding for TAA training is $70 million. Because CBO's baseline is $5 million below the cap in fiscal years 1994, 1995, 1996, 1998 and equal to the cap in fiscal year 1997, the estimated increase in TAA training costs with the existing caps would be $5 million each year in fiscal years 1994, 1995, 1996, 1998 and zero in fiscal year 1997.

New Trade Adjustment Assistance Benefits.—The bill would add a new sub-chapter to the TAA program to allow workers who lose their job because their firm shifts production to Mexico or Canada to qualify for TAA. In addition, workers would be required to enter a job training program by their sixteenth week of unemployment or their sixth week of TAA certification, whichever is later, to be eligible for benefits. Unlike the current TAA program, beneficiaries under this subpart could not receive a waiver from training and still collect cash assistance. TAA cash and training benefits under this amendment would be available to those who are displaced from their jobs between January 1, 1994, and September 30, 1998. CBO estimates that fewer than 1,000 workers annually would qualify for TAA payments under the provision. The average training benefit would be $4,000 per person, and the average cash benefit would be approximately $6,000 per person. CBO estimates that total TAA payments under this new sub-part would be less than $500,000 in fiscal year 1994, $7 million in fiscal year 1995, $8 million in fiscal year 1996, and $9 million in each of the fiscal years 1997 and 1998.

Effects on Agricultural Price Support Programs.—Gradual reductions in tariff and nontariff barriers on agricultural products under the North American Free Trade Agreement are expected to result in increased trade between the United States and Mexico. An estimated net increase in U.S. exports of commodities currently supported by agriculture programs would result in higher market prices and a reduction in government support payments. While lower acreage reduction program (ARP) requirements (to compensate for increased demand) would mitigate some of the price increase, the ARP level could not be reduced in some years.

The bill also would require end use certificates for imports of wheat and barley. Such certificates would tend to discourage imports and raise the price for domestically produced gains, resulting in slightly lower program payments.

CBO estimates that increased exports and higher prices, combined with the requirement for end use certificates on imports of wheat and barley, would reduce federal expenditures on agricultural programs by $184 million during 1994 through 1998. The majority of these savings would be derived from higher prices and lower program payments for feed grains. The dairy sector and other grains would benefit noticeably from increased exports, leading to a reduction in federal support purchases and lower program costs.

North American Development Bank.—Section 542 would authorize the President to accept membership in a North American Development Bank. The bank would be a multilateral bank with stock held by member states. The bill would authorize the United States to subscribe to 150,000 shares of capital stock and the appropriation of $1,500 million to purchase the stock. It would appropriate $56.25 million in 1995 for the first paid-in stock subscription, and would provide an authorization of appropriations for the remaining amount without fiscal year limitation.

The North American Development Bank would have the same structure as other regional development banks. Only 15 percent of the bank's stock would be paid-in, or purchased, by the member states. The balance would be callable capital. Callable capital would secure borrowing by the bank in private capital markets. The bank would relend the funds. Member states would make payments on callable capital subscriptions only to the extent that the bank could not service its debt from earnings on its investments.

The estimate assumes the U.S. government would subscribe to the capital stock in four equal annual installments. The first installment would be funded by the $56.25 million appropriated for paid-in capital and the authorization for callable capital subscriptions provided in section 541(a)(3) of this bill. The estimate assumes that the final three installments of paid-in capital would be provided in appropriations acts in 1996, 1997, and 1998. The estimate assumes that the appropriation for paid-in capital would represent outlays in the year provided. The authorization to subscribe to the callable capital stock is not expected to result in any appropriations or outlays during the period of the estimate.

Section 543 authorizes the President to enter into an agreement with the Bank to receive 10 percent of the paid-in capital actually paid to the Bank by the United States. The bill would authorize the President to use these funds, without further appropriation, to make loans or loan guarantees through existing federal programs to support the community adjustment and investment program defined in the Cooperation Agreement. CBO estimates this provision would result in a receipt to the government from the Bank of $5.6 million in 1995, and subsequent spending of the same amount through existing community development loan and loan guarantee programs.

Customs Modernization.—S. 1627 would make several changes in the administrative procedures of the Customs Service. Customs would be allowed to release unclaimed merchandise for sale or destruction after six months rather than the one-year period mandated by current law. CBO estimates

that this provision would decrease storage costs by $6 million annually. In addition, the number of entries that could be filed informally would be increased. Informal entities are assessed a lower customs user fee, and we estimate that this provision would decrease fee collections by $1 million annually. The net effort of these changes would be an outlay reduction of about $5 million a year.

SPENDING SUBJECT TO APPROPRIATIONS ACTION

Agriculture.—Sections 321 and 361 of the bill would authorize a number of program changes that could increase federal outlays in agricultural programs by an estimated $172 million over the 1994–1998 period. The majority of costs would reflect authorizations for assistance to farm workers in markets adversely affected by increased trade with Mexico ($20 million per year) and the construction of a containment facility for agricultural products from Mexico. Other provisions would require the Secretary of Agriculture to provide information and report on various agriculture markets and to monitor end use certificates.

North American Development Bank.—Beyond the amount appropriated for 1994, S. 1627 would authorize additional appropriations of $168 million for paid-in capital of the bank.

Section 543 would authorize the President to enter into an agreement with the Bank to receive 10 percent of the paid-in capital paid to the Bank by the United States. The bill would authorize the President to use the 10 percent portion to make loans or loan guarantees through existing federal programs to support the community adjustment and investment program defined in the Cooperation Agreement. CBO estimates this provision would result in a receipt to the government from the Bank of $5.6 million annually over the 1996–1998 period, and subsequent spending of the same amount through existing community development loan and loan guarantee programs.

NAFTA Secretariat.—Title I would authorize the appropriation of up to $2 million to fund the United States section of the secretariat established by the agreement. These funds would be used to pay for the activities of the secretariat, as well as the commission, several committees and subcommittees, and various working groups subordinate to the secretariat. It also would allow the U.S. section to retain and spend reimbursements from the Mexican or Canadian section. We assume that the U.S. section of the secretariat would be established within the International Trade Administration of the Department of Commerce (DOC), and that the secretariat and the various committees under its jurisdiction would use the full $2 million authorized to pay for personnel and other costs.

Commerce Department Fees.—Title III (subtitle E) would require the DOC to make available to the public certain information relating to sanitary procedures and would permit the DOC to charge reasonable fees for this information. Such fees would raise $1 million to $2 million annually and would be available for spending under existing authority.

Customs Automation Program.—S. 1627 would establish the National Customs Automation Program, an automated and electronic system for processing information on commercial imports. We estimate that this program would cost $3 million in fiscal year 1994, assuming appropriation of the necessary funds.

Tax Collection Expenses.—The bill would authorize the Harbor Maintenance Trust Fund to use, for the first time, up to $5 million annually to cover the administrative costs of collecting the harbor maintenance tax. We estimate that this would result in costs of $5 million annually, assuming appropriation of the necessary funds.

Commissions.—Section 532 would authorize an annual appropriation of $5 million for 1994 and 1995 for the United States contributions to the annual budget of the Commission for Environmental Cooperation. This commission is described in article 43 of the North American Agreement on Environmental Cooperation; its purpose is to address environmental issues affecting the continent. Section 533 would authorize annual appropriations of $5 million, starting in 1994, for the Border Environment Cooperation Commission (BECC) that is established by the Border Environment Cooperation Agreement. This commission would assist in developing solutions to environmental problems in the U.S.-Mexico border region. The BECC would certify environmental construction projects for the North American Development Bank (established by section 541) and other financial institutions.

International Trade Commission.—Various provisions of the bill would require the International Trade Commission to monitor certain imports and to investigate and determine petitions for relief from imports benefiting from the agreement. Based on information supplied by the commission, CBO estimates that these duties will require an additional authorization of less than $1 million per year.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 1627 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill. The following table summarizes CBO's estimate of the pay-as-you-go impact of S. 1627. These figures represent the direct spending estimates in Table 1, excluding the effects on off-budget revenues.

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	−152	−208	−257	−218	62
Change in receipts	−151	−208	−256	−218	555

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On November 4, 1993, CBO prepared an estimate, based on draft language, of the direct spending and revenue effects of the North American Free Trade Agreement Implementation Act. That estimate of revenues and direct spending is identical to the estimate for S. 1627.

On November 15, 1993, CBO prepared cost estimates for H.R. 3450, an identical bill ordered reported by the House Committee on Ways and Means, the House Committee on Banking, Finance and Urban Affairs, and the House Committee on Energy and Commerce. Those estimates are identical to this one.

10. Estimate prepared by: Kim Cawley, Mark Grabowicz, Mary Maginniss, Eileen Manfredi, Ian McCormick, John Webb, and Robert Sunshine, Cory Oltman, Melissa Sampson, Linda Radey and Joseph Whitehill.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

PART X. REPORT OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry to which was referred the bill S. 1627, having considered the same, reports favorably thereon and recommends that the bill do pass.

BRIEF EXPLANATION

The implementing bill makes it necessary for appropriate changes in law to implement the North American Free Trade Agreement. The major provisions of the bill considered by the Committee on Agriculture, Nutrition, and Forestry are briefly described below.

The bill amends section 22 of the Agricultural Adjustment Act to authorize the President, pursuant to Article 309 and Annex 703.2 of the Agreement, to exempt any "qualifying good" from Mexico from import restrictions imposed under section 22.

The United States will convert its import quotas under section 22 of the Agricultural Adjustment Act to tariff rate quotas for imports from Mexico of dairy products, cotton, sugar-containing products and peanuts.

The bill directs the President to take such action as may be necessary to ensure that imports of goods subject to the tariff rate quotas established by the Agreement do not disrupt the orderly marketing of commodities in the United States.

The bill includes measures to ensure compliance with existing provisions concerning reentry of exported additional peanuts. In addition, the sense of Congress is expressed that the United States should request consultations with Mexico if imports of peanuts exceed the in-quota quantity of Mexican peanuts established under the Agreement.

The bill requires the Secretary of Agriculture to collect and compile certain information for fresh fruits and vegetables, processed citrus products, and cut flowers, and to designate an office to maintain and disseminate this information.

The bill establishes an end-use certificate requirement for wheat and barley imported by the United States from countries with similar requirements. The purpose of the U.S. end-use certificate requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs.

The bill authorizes a fellowship program for individuals from other NAFTA countries to study agriculture in the United States, and for individuals in the United States to study agriculture in other NAFTA countries.

The bill authorizes the Secretary of Agriculture, subject to appropriation, to make available up to $20 million per year in grants to tax-exempt entities with experience in providing services to low-income migrant or seasonal farm workers, if NAFTA is determined to have caused such workers to lose income.

The bill requires the Secretary of Agriculture to submit a biennial report on the effects of NAFTA on U.S. agricultural producers and rural communities, with the first report due March 1, 1997.

The bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards and measures under the Agreement. Chapter 1 of the new subtitle contains provisions to implement Section B of NAFTA Chapter 7.

The bill provides a conforming change to amend the Federal Seed Act to remove the staining requirement for alfalfa and clover seed imported from Mexico.

The bill removes a blanket prohibition on the importation of animals which are diseased, infected with any disease, or which have been exposed to infection within 60 days prior to their exportation to the United States. The provision does not require the Secretary of Agriculture to permit the importation of such animals, but it permits the

Secretary to specify those circumstances in which such animals may be imported.

The bill authorizes the Secretary of Agriculture to promulgate regulations to permit the Secretary to waive certain regulations regarding shipments of ruminants and swine between the United States and Canada or Mexico.

The bill authorizes the Secretary of Agriculture to permit the importation of livestock and meat from regions of countries that are, and are likely to remain, free of foot-and-mouth disease and rinderpest. A similar provision allows the Secretary to permit the importation of honeybees or honeybee semen from regions of Canada and Mexico that are free of diseases, harmful parasites, and undesirable honeybee species or subspecies.

The bill amends the Poultry Products Inspection Act to implement NAFTA Article 714(2) on equivalence. The provision permits imports of poultry and poultry products from Canada or Mexico if they are processed in facilities and under conditions that meet standards equivalent to U.S. standards.

Likewise, the bill amends the Federal Meet Inspection Act to implement NAFTA Article 714(2) on equivalence. The provisions permit the importation from Canada or Mexico of meat, carcasses, and meat products upon certification that plants in Canada or Mexico have complied with requirements equivalent to the applicable U.S. requirements.

The bill requires that peanut butter and peanut paste be processed from peanuts meeting the standards of Marketing Agreement No. 146, except that imported peanut butter and peanut paste may, alternatively, comply with sanitary measures that provide at least the same level of sanitary protection.

The bill authorizes the Secretary of Agriculture, subject to appropriation, to make a grant to construct the "Southwest Regional Animal Health Biocontainment Facility" to conduct research in animal health and certain other biocontainment matters.

The bill mandates an annual report by the Secretary of Agriculture on the impact of NAFTA with respect to the inspection of imported meat, poultry, other foods, animals and plants.

PURPOSE AND NEED

S. 1627 approves and implements the North American Free Trade Agreement negotiated by the United States with Mexico and Canada.

The implementing bill makes certain changes in United States law that are necessary or appropriate to implement the Agreement. This report discusses section 321 (b) through (i), section 351, and section 361 of the implementing bill.

Most changes in United States law and regulation implementing the Agreement will apply only with respect to Mexico and Canada. United States law and practice with respect to other countries, their nationals, and firms will generally be left undisturbed.

Many provisions of the Agreement will not require any change in United States law or administrative procedure. Where United States law affords discretion to comply with the Agreement, the implementing agency will exercise its discretion in a manner consistent with the Agreement. In addition, some provisions of the Agreement impose obligations only on Mexico or Canada.

COMMITTEE CONSIDERATION

The Committee held a hearing on September 21, 1993, to discuss the implications of the proposed North American Free Trade Agreement.

Witnesses at the hearing included: Mickey Kantor, United States Trade Representative; Mike Espy, Secretary, United States Department of Agriculture; Bob Foster, Vice Chairman of the Board of Directors, Agrimark, Inc.; Leland Swenson, President, National Farmers Union; Mike Bauerle, Immediate Past Chairman, Nebraska Corn Development, Utilization, and Marketing Board; Dean Kleckner, President, American Farm Bureau Federation; Martha Roberts, Deputy Commissioner for Food Safety, Florida Department of Agriculture and Consumer Services; and Roger Stuber, President, National Cattlemen's Association.

The Committee met on November 18, 1993, and favorably reported section 321 (b) through (i), section 351, and section 361 of the implementing legislation, S. 1627, by voice vote. Senators Heflin, Feingold, and Conrad asked to be recorded as voting no.

ROLLCALL VOTES

In accordance with paragraphs 7(b) of Rule XXVI of the Standing Rules of the Senate, it is announced that no roll call votes were taken with respect to Committee action on S. 1627.

SECTION-BY-SECTION ANALYSIS

Section 321. Agriculture

Section 321(b) Section 22 of the Agricultural Adjustment Act

Section 321(b) of the implementing bill authorizes the President, pursuant to Article 309 and Annex 703.2 of the NAFTA, to exempt any article which originates from Mexico from any quantitative limitation or fee imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), for so long as Mexico is a NAFTA country.

Section 321(c) Tariff Rate Quotas

Section 321(c) of the bill directs the President to take such action as may be necessary to ensure that imports of goods subject to tariff rate quotas do not disrupt the orderly marketing of commodities in the United States. Article 302(4) of the NAFTA permits the allocation of the in-quota quantity under these tariff rate quotas, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota. This provision will be implemented consistent with NAFTA Article 302(4). Any agency action pursuant to this provision will be taken in accordance with regulations promulgated after providing notice and opportunity for public comment.

Section 321(d) Peanuts

Section 321(d)(1) affirms that nothing in the Agreement or Act eliminates standard requirements for peanuts in the domestic market under Marketing Agreement No. 146.

Section 321(d)(2) affirms that nothing in the NAFTA or the implementing legislation affects the penalty applicable to an importer if any additional peanuts exported by a handler are reentered into the United States in commercial quantities. It also requires peanut importers to maintain such records and documents as the Secretary of Agriculture may require to ensure compliance with the provision concerning reentry of exported additional peanuts.

Section 321(d)(3) sets forth the sense of Congress that the United States should request consultations pursuant to the import surge supplemental agreement if imports of peanuts are entering at amounts in excess of the in-quota quantity established in the U.S. NAFTA Tariff Schedule for Mexican peanuts. The consultations would concern the question of injury to the domestic peanut industry and whether recourse to emergency action under either the NAFTA or GATT safeguard provisions is appropriate.

Section 321(e) Information Regarding Fresh Fruits, Vegetables, Citrus and Cut Flowers

Section 321(e) requires the Secretary of Agriculture to collect and compile certain information, if reasonably available, from United States and Mexican governmental agencies on fresh fruits and vegetables, processed citrus products and cut flowers. The Secretary is also to designate an office to maintain and disseminate this information.

Section 321(f) End-Use Certificates

Section 321(f) is intended to reflect the compromise language agreed by conferees to H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. The following reflects the Statement of Managers that was to accompany section 1403 of H.R. 2264:

Section 321(f) of the bill is a free-standing provision that establishes an end-use certificate requirement for the following: (1) wheat imported into the United States from any foreign country or instrumentality that requires, as of the effective date of the subsection, end-use certificates on United States-produced wheat; and (2) barley imported into the United States from any foreign country or instrumentality that requires, as of the effective date of the subsection, end-use certificates on United States-produced barley. The purpose of the U.S. end-use certificate requirement is to ensure that foreign agricultural commodities are not used in U.S. export programs.

The Committee intends that the term "end-use" shall include the following: (1) exporting from the United States without the benefit of the Export Enhancement Program, export credit guarantee (GSM) program, and P.L. 480 according to procedures established in existing United States law; (2) feeding to livestock; (3) first stage processing for human consumption or industrial uses; and (4) other uses as determined by the Secretary of Agriculture. Commingling with like types of United States grains should not be considered an end use. The Committee intends that the certificate remain current and follow the commingling grain until its end-use. For foreign grain intended for multiple end users, each portion of the grain must be accompanied by an end use certificate until it reaches its end use.

The Committee intends that the Secretary of Agriculture shall prescribe by regulation such requirements regarding the information to be included in end-use certificates as may be necessary and appropriate such as the class, quantity, and country of origin of the covered commodity; importer and initial consignee of the commodity; and the end-use, if known at the time of importation of the commodity. Any transfers from the importer, initial consignee, or any subsequent consignee shall be documented on the end-use certificate. The Secretary may prescribe procedures, such as periodic reporting, as are necessary to ensure proper oversight of this section. The Secretary is expected to take all appropriate action to protect any business confidential information. The Secretary will ensure that end-use certificate forms will be made freely available to importers.

In order to protect United States agricultural producers, the Secretary may, after consulting with Congress and after consultation with producers and producer groups, suspend end-use certificate requirements if the requirements have directly resulted in: (1) the reduction of income to U.S. producers of agricultural commodities; or (2) the reduction of competitiveness of U.S. agricultural

commodities in world export markets. In consulting with producers and producer groups prior to a suspension determination, the Secretary is expected to fully consider producers' views and concerns.

If a foreign country or instrumentality that requires end-use certificates for imports of U.S.-produced wheat as of the effective date of the subsection, eliminates this requirement, the Secretary is to suspend the U.S. end-use certificate requirement on wheat, effective 30 calendar days after the suspension by the foreign country or instrumentality. If a foreign country or instrumentality that requires end-use certificates for imports of U.S.-produced barley as of the effective date of the subsection, eliminates this requirement, the Secretary is to suspend the U.S. end-use certificate requirement on barley, effective 30 calendar days after the suspension by the foreign country or instrumentality.

The Secretary is required to submit a report to Congress detailing the reasons, including supporting data and analysis, for his determination to suspend, pursuant to paragraph 321(f)(3), requirements for end-use certificates.

Any person required to use an end-use certificate shall be subject to section 1001 of Title 18, United States Code if found to be engaging in fraud with respect to, or knowingly violating, the provisions in this section or regulations that implement this section.

The requirements of this section shall be effective 120 days after the date of implementation of this Act.

Section 321(g) Agricultural Fellowship Program

Section 321(g) of the bill authorizes a new fellowship program under which the Secretary of Agriculture will provide fellowships to individuals from other NAFTA countries to study agriculture in the United States and to individuals in the United States to study agriculture in other NAFTA countries.

Section 321(h) Assistance for Affected Farm Workers

Section 321(h) of the bill authorizes the Secretary of Agriculture, subject to appropriation, to make available up to $20 million per fiscal year in grants to tax-exempt entities that have experience in providing emergency services to low-income migrant or seasonal farm workers. The Secretary must first determine, however, that the NAFTA has caused such workers to lose income.

Section 321(i) Biennial Report on Effects of NAFTA

Section 321(i) of the bill requires the Secretary of Agriculture to submit a report every two years on the effects of NAFTA on U.S. agricultural producers and rural communities, beginning March 1, 1997. The requirement expires with the report due on March 1, 2011. The bill requires the report to assess the effects of the NAFTA on: (1) a commodity-by-commodity basis; (2) agricultural investments; (3) rural communities; and (4) agricultural employment. The Secretary may also include other appropriate information and data.

Section 351. Sanitary and Phytosanitary Measures

Section 351 of the implementing bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards and measures under the NAFTA. Chapter 1 of the new subtitle contains provisions to implement Section B of NAFTA Chapter Seven.

Title IV of the Trade Agreements Act of 1979 was enacted to implement the Tokyo Round Standards Code. Federal agencies have been subject to the requirements of Title IV since 1980. These existing provisions continue to apply to standards activities of federal agencies, which includes some of the standards-related measures under the NAFTA. However, the definitions and coverage of Chapter Seven differ from the definitions and coverage of the Standards Code, so it was necessary to provide separate legislative provisions in the Trade Agreements Act of 1979 to implement Chapter Seven.

Section 461 of the new subtitle states that no Federal or State agency engaging in activities relating to sanitary or phytosanitary measures are in any way limited in protecting human, animal, or plant life.

Section 462 of the new subtitle assigns to the standards information center established under section 414 of the Trade Agreements Act of 1979 additional duties regarding 1) any sanitary or phytosanitary measures of general application; 2) procedures and factors of any federal or State agency regarding risk assessment; 3) disseminating information regarding international, regional, or national sanitary or phytosanitary organizations and systems. The National Institute of Standards and Technology (NIST) under the Department of Commerce currently serves as the standards information center.

Section 463 of the new subtitle provides definitions of the terms used in chapter 2 of the new subtitle. These definitions are drawn from the definitions in the NAFTA. The definitions of "standard" and "technical regulation" are taken from the notes to Article 724 agreed to by the NAFTA countries set out after Chapter Twenty-Two of the NAFTA.

Section 361. Agricultural Technical and Conforming Changes

Section 361(a) Federal Seed Act

Section 361(a) of the bill provides a conforming change to amend the Federal Seed Act to remove the staining requirement for alfalfa and clover seed imported from Mexico. The CFTA Implementing Act made a similar conforming change to implement the CFTA.

Section 361(b) Importation of Animals

Section 361(b) of the bill amends section 6 of the Act of August 30, 1890, to authorize the Secretary of Agriculture, in accordance with such regulations as the Secretary may promulgate, to permit the importation of cattle, sheep, and other ruminants and swine, which are diseased or infected with any disease, or which have been exposed to such infection within 60 days prior to their exportation to the United States. This provision does not require the Secretary to permit the importation of such animals. The law had prohibited the entry of such animals, with a few limited exceptions, but a prohibition on importation from Mexico and Canada may not be needed for animal health purposes in all instances, nor may animal health concerns necessitate limiting imports from Mexico of certain cattle only to the State of Texas. Accordingly, the bill permits the Secretary to specify those circumstances in which such animals may be imported.

Section 361(c) Inspection of Animals

Section 361(c) of the bill amends section 10 of the same act to authorize the Secretary to promulgate regulations to permit the Secretary to waive certain requirements regarding shipments of ruminants and swine between the United States and Canada or Mexico.

Section 361(d) Disease-free Countries or Regions

Section 361(d)(1) of the bill amends section 306 of the Tariff Act of 1930 to implement NAFTA Article 716 regarding adaptation to regional conditions. The bill authorizes the Secretary to permit, subject to such terms and conditions as the Secretary determines appropriate, the importation of ruminants and swine and the fresh, chilled and frozen meat of such animals from regions of countries that are, and are likely to remain, free of foot-and-mouth disease and rinderpest. This provision does not require the Secretary to permit the entry of such goods but merely authorizes the Secretary to determine the appropriate terms and conditions for such entry.

Section 361(d)(2) of the bill amends the Honeybee Act to implement NAFTA Article 716. This provision permits the importation of honeybees and honeybee semen from regions of Canada and Mexico that are free of diseases or parasites harmful to honeybees and undesirable species or subspecies of honeybees.

Section 361 (e) and (f) Poultry and Meat Inspection

Sections 361 (e) and (f) of the bill amend, respectively, section 7(d) of the Poultry Products Inspection Act and section 20(e) of the Federal Meat Inspection Act to implement NAFTA Article 714(2) on equivalence. With respect to poultry and poultry parts and products, these provisions permit the importation from Canada or Mexico of such goods capable of use as human food if they are processed in facilities and under conditions that meet standards that are equivalent to U.S. standards. With respect to meat, carcasses and meat products, the bill would permit the importation from Canada or Mexico of such goods upon certification by the Secretary that plants in Canada or Mexico have complied with requirements equivalent to the applicable U.S. requirements.

The bill specifically authorizes the Secretary to treat an applicable standard of Canada or Mexico as equivalent to a U.S. standard or requirement if the exporting country provides the Secretary with scientific evidence or other information, in accordance with mutually agreed risk assessment methodologies, to demonstrate that the foreign standard achieves the level of protection that the Secretary deems appropriate. The Secretary remains free to determine, on a scientific basis, that the foreign standard does not achieve that level of protection.

Section 361(g) Peanut Butter and Peanut Paste

Section 361(g) establishes requirements for peanut butter and peanut paste in the domestic market. Peanut butter and peanut paste must be processed from peanuts meeting the standards of Marketing Agreement No. 146, except that imported peanut butter and peanut paste may, as an alternative, comply with sanitary measures that provide at least the same level of sanitary protection as is achieved by peanut butter and peanut paste processed from peanuts meetings the standards of Marketing Agreement No. 146. This provision is included to provide additional protection from risks associated with aflatoxin.

Section 361(h) Animal Health Biocontainment Facility

Section 361(h) of the bill authorizes the Secretary of Agriculture, subject to appropriation, to make a grant to a land grant college or university, located in a state adjacent to Mexico, that the Secretary determines has an established program in animal health research and education and a collaborative relationship with a Mexican university or veterinary school. The grant is for

the construction of the "Southwest Regional Animal Health Biocontainment Facility," to conduct research in animal health and certain other biocontainment matters. In light of the increased U.S.-Mexico trade expected under the NAFTA, this facility will help to ensure the protection of animal and plant life and health in the border area.

Section 361(i) Inspection Reports

Section 361(i) of the bill mandates an annual report by the Secretary of Agriculture, in addition to the biennial report required pursuant to section 321(i), on the impact of NAFTA with respect to inspection of commercially significant quantities of imported meat, poultry, other foods, animals and plants into the United States. These reports are required beginning January 31, 1995, through 2004. The Secretary will consult with other appropriate agencies in preparation of the annual report.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out S. 1627.

The bill creates several new authorities and programs. Under the bill, several existing programs are modified for the purpose of implementing the Agreement.

The bill creates some additional regulatory requirements. For example, regulations will be necessary to implement the end use certificates authorized in Section 321(f).

The bill could result in some additional paperwork and record-keeping requirements, such as with respect to the reports required by Sections 321(i) and 361(i).

Mr. DODD. Mr. President, I rise today to once again address the North American Free-Trade Agreement.

In previous remarks, I have discussed the implications of our vote for our neighbors in the Western Hemisphere. I plan to return to that topic again before this debate ends.

Today, however, I want to bring this debate closer to home and talk about the benefits I see for my own State of Connecticut if we pass the other body's lead and pass the North American Free-Trade Agreement.

EXPORTS AND THE CONNECTICUT ECONOMY

Connecticut's economy has been battered since the current recession began in 1989. Since that time, my State has lost nearly 200,000 jobs, and despite the fact that the recession is 4 years old, the economic picture has hardly brightened.

In the midst of a gloomy economic picture, however, there has been one bright spot: Exports. Connecticut's exports have been expanding rapidly, and they are creating jobs at a time when they are sorely needed.

In 1992, Connecticut's exports totaled $5.2 billion. That was up from $2.65 billion in 1987, an increase of nearly 200 percent in just 5 years. One in every five Connecticut manufacturers exported products in 1992.

CONNECTICUT LEADING THE WAY

In fact, Connecticut is now second only to Washington State in the proportion of its civilian jobs that are export related. At a time when the United States is increasingly becoming part of the international marketplace, I am proud to say that Connecticut is one of the States leading the way.

This case was persuasively argued recently in the Journal of the Connecticut Business & Industry Association. An article entitled, "NAFTA: More Trade, More Jobs for Connecticut", demonstrated the gains Connecticut stands to reap if we adopt this trade agreement. I would ask unanimous consent that the text of this article be entered into the RECORD at the conclusion of my remarks.

CONNECTICUT WELL-POSITIONED FOR GROWTH

In this article, Dawn Rodriguez, manager of export development for the Connecticut Department of Economic Development, states that, "Connecticut is very well-positioned to increase its trade with Canada and Mexico—particularly the latter—and to create high-tech, high-skilled, high-value jobs in the process."

"Connecticut businesses of all sizes have been increasing their activity in Mexico recently," she goes on. "We led our first group of Connecticut business leaders to Mexico in December 1990. Now, we are taking three to four per year to trade shows—and we have a waiting list for our December 1993 trip."

This message comes straight from the Connecticut Department of Economic Development—the agency charged with expanding Connecticut's job base. The Connecticut Department of Economic Development knows that trade with Mexico is already creating jobs in my State and has the potential to create many, many more.

INCREASING EXPORTS TO MEXICO

Connecticut's exports to Mexico are not limited to one particular area. Rather, they cut across the economy, from chemicals to electronic equipment, from insurance to paper products, from agriculture to transportation equipment.

More and more Connecticut firms are realizing that the key to success in today's economy lies in finding new markets. And the new markets Connecticut firms are finding are increasingly in Mexico. In fact, Connecticut exports to Mexico have increased more than 140 percent since 1987.

EXAMPLES OF EXPORTS TO MEXICO

On previous occasions, I have talked about specific Connecticut companies that have already tapped into the Mexican market and that hope to expand their efforts in the years ahead. Today, I will briefly mention two more.

Lego, which manufactures the well-known building blocks and toys, already employs more than 1,000 people in Enfield, CT. If we pass the North American Free-Trade Agreement, Lego plans to dramatically boost sales to Mexico—and use its operations in Connecticut as a launching pad. That would expand the workforce at Lego's Enfield operation by 10 percent.

General Electric, based in Fairfield, CT, has tripled its sales to Mexico since 1986. GE had already sold hundreds of millions of dollars worth of locomotives, power generators, conveyor belts, kitchen appliances, and medical diagnostic equipment in Mexico. During the next decade, it expects to increase its sales to Mexico by 20 percent every single year. That translates into more and more jobs for Connecticut.

NAFTA'S SUPPORT FROM MAJOR NEWSPAPERS

So clear are this trade agreement's benefits for my State that a number of Connecticut newspapers—from all across the political spectrum—have endorsed the pact. The Hartford Courant, which often takes progressive positions on major issues, told its readers on September 26 that the North American Free-Trade Agreement is a vehicle for economic expansion. "For the United States, NAFTA is a test of economic leadership," the Courant stated. "Approval would help all North Americans compete in the global economy."

And the Connecticut Post, which is viewed as having a more conservative bent, stated on September 22 that "The North American Free-Trade Agreement would boost U.S. interests in economic growth, environmental, and social progress and national security. The bipartisan pact foresees inevitable changes in the world economy and power structure, and would harness those trends to our benefit."

I ask unanimous consent that the full text of both editorials appear in the RECORD at the conclusion of my remarks.

CONCLUSION

In closing, Connecticut has absolutely nothing to fear from free trade with Mexico and absolutely nothing to fear from the North American Free-Trade Agreement. To the contrary, Connecticut companies, Connecticut workers, and the Connecticut economy stand to make major gains with the approval of this agreement.

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

[From the Connecticut Business & Industry Association Journal]

NAFTA: MORE TRADE, MORE JOBS FOR CONNECTICUT

(By Arthur G. Sharp)

Connecticut's economy, already larger than the economies of many countries, stands to grow even more if the North American Free Trade Agreement among the United States, Canada and Mexico becomes reality, say business experts. And that will mean more jobs for Connecticut residents.

Exporting by Connecticut companies has always made a big contribution to the state's economic growth in terms of dollars coming into the state and jobs created. Exports to Canada and Mexico alone totaled $1.5 billion in 1991. Connecticut jobs supported by manufactured exports to those two countries numbered 44,000. Those figures will

likely increase once NAFTA is implemented—assuming it's approved by Congress.

Canada, which has had a separate free trade agreement with the United States since 1989, has been Connecticut's No. 1 trading partner for years.

Trade with Mexico has proved lucrative, too, even in the absence of a free trade agreement. Mexico is now Connecticut's fifth highest-ranking trade partner. In 1992, exports by Connecticut companies to Mexico totaled $273.6 million, a 5.2 percent increase over 1991. Since every billion dollars in exporting creates 19,000 jobs, that translates into approximately 5,200 new jobs for Connecticut supported by Mexican trade.

"Connecticut is very well-positioned to increase its trade with Canada and Mexico—particularly the latter—and to create high-tech, high-skilled, high-value jobs in the process," says Dawn Rodriguez, the Connecticut Department of Economic Development's manager of export development.

In fact, she says, "Connecticut businesses of all sizes have been increasing their activity in Mexico recently," and their interest is growing. "We led our first group of Connecticut business leaders to Mexico in December 1990," Rodriguez says. "Now, we are taking three to four [groups] per year to trade shows—and we have a waiting list for our December 1993 trip."

Rodriguez says Mexico represents a valuable opportunity for Connecticut businesses, and Peter Gioia, CBIA's research director, points out two reasons why:

"The Mexican economy is expanding right now—there's high GDP [gross domestic product] growth. That means there's a demand for goods and services," he says. "And what's really important is that, unlike Pacific Rim consumers, Mexican consumers buy American—American goods have a lot of cachet there."

According to USA–NAFTA a group that's urging NAFTA's passage, the average Mexican spends $380 per year on U.S. goods and services. By contrast, the average Korean, who earns twice as much, spends $360. And the average Japanese, who earns 10 times as much, spends only $400.

What's more, in 1992 Mexicans bought $40.6 billion worth of American goods and services—$5.4 billion more than Americans bought from them.

It's no wonder, then, that many business leaders here are enthusiastic about NAFTA.

WHO STANDS TO BENEFIT?

Several state industries that will likely benefit from NAFTA, according to Rodriguez, include: financial and computer services, as well as manufacturing—particularly chemicals, machine tools, medical and laboratory equipment, and precision machinery. Also high on her list are environmental consulting services and pollution control products, both of which are timely because the Mexican government is currently investing money in environmental clean-up programs.

Companies, whether or not they already have a foot in the door in Mexico, should be able to take advantage of the increasing trade opportunities there.

Aetna Life & Casualty Co., for example, currently owns 30 percent of VAMSA, a Mexican multi-line insurance holding company that owns Mexico's third largest life insurance company and its second-largest bonding company. Pending approval of the Mexican government, Aetna could increase its ownership to 44.5 percent.

Similarly, software marketer Dataease International, based in Trumbull, already has one distributor in the country. Randy Newell, director of marketing says, "We're well-positioned to increase our presence there—and to use it as a jumping-off point to expand our business throughout the Northern Hemisphere."

Newell's statement points to another potential benefit of NAFTA. "Several South American countries, such as Chile, Argentina and Colombia, are interested in forming free trade agreements with the NAFTA countries," he says. "This will present added opportunities for Connecticut-based companies."

Certain industries may not benefit from NAFTA at the outset, but could in the long run. As Ray Oneglia, president and chairman of O & G Industries in Torrington, observes, NAFTA will have little or no immediate impact on Connecticut-based construction firms. Currently, public-sector construction projects such as roads, schools and bridges are awarded exclusively to Mexican firms.

That may change, however, since private construction jobs are open to outside firms. It's only a matter of time until public projects are, too—for example, in regard to construction engineering—or until NAFTA creates the many benefits its supporters predict.

NAFTA NOT A SURE THING

Those benefits, however, may never be realized because NAFTA is not yet a fait accompli. The agreement, well on its way to being ratified by the Canadian and Mexican governments, faces stiff opposition in the U.S. Congress.

"The passage of NAFTA is dependent on ancillary agreements involving environmental and labor concerns," says Willard Hill, Aetna Life & Casualty's Washington counsel for government relations. Another major obstacle to passage is the recent ruling by a federal judge requiring completion of an environmental impact statement before NAFTA can take effect. This ruling could intensify opposition to NAFTA.

"To date, opponents of NAFTA have been more vocal than supporters," says Hill.

Opponents claim that NAFTA will result in American jobs being lost to Mexico, where wages are lower, and that Mexico's lenient anti-pollution laws will put U.S. companies at a disadvantage. In fact, both fears may be unfounded.

NAFTA supporters say any jobs lost will come from the unskilled labor ranks and will be more than offset by an increase in the number of professional, high-tech positions. That would be good news for Connecticut, whose exporting industries, for the most part, involve a lot of professional high-tech jobs.

"Quantifying the number of newly created jobs will be difficult for the service sector," Hill admits. But, he adds, "At some point, increased exports will lead to profits that will expand the capital base. That will create jobs—quantifiable jobs."

As for the environmental concerns, Mexico is in the midst of an aggressive effort to eliminate pollution. Since 1989, it has increased its federal environmental budget elevenfold to more than $78 million in order to counteract pollution problems. Mexican government officials estimate that finishing the job will take billions of dollars and several decades—which will mean export opportunities for Connecticut companies in the environmental field.

One of Connecticut's strengths, points out CBIA's Gioia, is the number of technologically advanced companies involved in pollution control and environmental consulting. "These companies stand to benefit greatly from NAFTA," he notes. "I advise them to seek out opportunities in these areas."

What they should do, he says, is learn as much as they can about the expanded business opportunities in Mexico and take advantage of export assistance. "State businesses are just becoming aware of the opportunities available to them through trade with Mexico," he says. "If they want to take advantage of them, assistance is available through CBIA's International Trade Council and the Connecticut Department of Economic Development."

Gioia also emphasizes that they should take an active role in pushing for NAFTA's passage. Although Rodriguez, from the Economic Development Department, says that trade with Mexico will increase with or without NAFTA, Gioia says NAFTA is essential.

"Passage of NAFTA is important, not just to increase our exports to Mexico, but possibly to maintain current export levels," he says. "If Congress scuttles NAFTA, it could sour relations with the Mexican government, which could affect trade not only with Mexico, but with all of Latin America."

Aetna's Hill agrees on the urgency of passing NAFTA. He urges businesspeople interested in seeing NAFTA become reality to contact their U.S. senators and representatives to let them know how their companies will benefit from the agreement, and to push for its passage. "Otherwise," he says, "businesses may [wind up with] a costly missed opportunity."

[From the Hartford Courant, Sept. 26, 1993]

WHY OPPOSE FREE TRADE?

The vehemence of the opposition to the North American Free Trade Agreement is hard to understand.

One would think there would be overwhelming support for establishing on this continent the biggest common market in the world. Consumers benefit from trade. Quotas and tariffs cause inefficiencies, price increases—and job-busting recessions.

NAFTA is a vehicle for economic expansion. Yet its critics are spreading fears that approval of the agreement by Congress would bring about massive job losses in the United States and further environmental degradation and labor exploitation in Mexico.

Protectionists have always relied on fearmongering to keep markets closed.

Trade barriers between Mexico and the United States have been lowered substantially. Since President Carlos Salinas de Gortari began implementing his lower-tariff policies five years ago, the balance of U.S. trade with Mexico has shifted dramatically in our favor—from a $6 billion deficit to a $5 billion surplus.

Similarly, liberalized trade with Canada has increased U.S. exports to that country by 26 percent in four years.

The record for Connecticut, a major exporting state, is even more dramatic. Since 1987, our state's exports to Canada have grown by 141 percent and to Mexico by 175 percent. According to estimates from the U.S. Department of Commerce, some 90,000 manufacturing jobs in Connecticut last year were directly generated by exports to dozens of countries. Tens of thousands of additional jobs in service businesses (banks, insurance, communications) were indirectly sustained by exports.

Indeed, there would have been no recession in Connecticut had the rest of the economy enjoyed growth remotely similar to the growth in trade with Mexico and Canada.

If trade with those two countries is booming anyway, why do we need NAFTA?

The agreement is critical to Mexico. That country's government, business, academic and labor leaders consider NAFTA the key to improved relations with the United States. They want to develop their land with the help of free trade. They prefer to have such trade with their neighbor than with Japan, which has been knocking at Mexico's doors.

Improved living standards, in Mexico, a nation of some 90 million people, will serve U.S. interest well. More Mexicans could afford to buy U.S. goods and services. Illegal immigration would diminish.

Canada has already ratified NAFTA. There was considerable fearmongering in that country, too. Alarmists warned that Canadian businesses would be overwhelmed by the powerful and aggressive Yankees.

In the United States, alarmists warn that the world's biggest economy would be overwhelmed by cheap Mexican goods and injured deeply by a migration of companies in search of cheap labor.

That migration has taken place and will continue to take place, regardless of NAFTA. As for cheap goods, the age-old economic doctrine applies: Under NAFTA, it would be in the economic interest of each country to produce items in which it has comparative advantage.

Our future does not depend on nurturing businesses that rely on unskilled labor. It lies in developing and expanding businesses that require skilled and well-paid workers who are more productive than their foreign counterparts.

The Clinton administration is seeking money for job training to help workers dislocated by NAFTA. The dislocations would be limited. Unless several major studies of the agreement are off base, there will be a net gain in U.S. jobs as a result of the agreement.

For the United States, NAFTA is a test of economic leadership. Approval would help all North Americans compete in the global economy. Eventually, there could be a free-trade agreement encompassing the hemisphere.

[From the Connecticut Post, Sept. 22, 1993]

NAFTA IS A MEASURE OF FAITH IN THE FUTURE

The North American Free Trade Agreement would boost U.S. interests in economic growth, environmental and social progress and national security. The bipartisan pact foresees inevitable changes in the world economy and power structure, and would harness those trends to our benefit.

The biggest fear associated with NAFTA is that American jobs and industries will go south to take advantage of the cheap labor and scarce regulation in Mexico. What opponents don't say is that jobs and industries can do that now. Some have.

NAFTA, on the contrary, would impose stricter labor and environmental regulations on Mexico, especially in light of the spate of side agreements President Bill Clinton recently signed to strengthen those protections. There will be less reason, not more, for U.S. manufacturers to relocate south of the border.

While Connecticut sends a healthy $280 million worth of exports to Mexico. NAFTA would ensure almost all U.S. exports to our southern neighbor. Right now, it is easier for Mexican goods to meet the 4 percent U.S. tariff and be sold in the United States than for U.S. goods to meet the 10 percent Mexican tariff and be sold there. What NAFTA would do is eliminate virtually all of Mexico's protectionist tariffs on industrial and agricultural goods. American exports, economic analysis maintain, are now and will continue to be the fastest growing segment of our economy.

NAFTA would also open Mexican borders for the first time to U.S. service providers, who are all but prohibited now.

Wherever international agreements like NAFTA have been forged, participating countries have profited by the pacts. Germany, France, Italy, England and other European nations have the European Community pact. Their standards of living have improved, as have those of Japan, which is building a number of trade bridges throughout Southeast Asia.

In fact, the global economy is quickly congealing into clusters of trade alliances, and if any one North American nation is to survive the competition, it needs the additional monetary and natural resources of the other two.

Together, the combined United States, Canadian and Mexican market would wield greater financial clout than any of the other alliances and would include a whopping 360 million people. Sen. Bill Bradley, D-N.J., has noted that North American nations can be stronger together than they could ever be apart. Stronger than any conglomerate in the world.

GLOBAL ENVIRONMENTAL OPPORTUNITIES: SUSTAINABLE DEVELOPMENT AND FOREIGN AID

Mr. BAUCUS. Mr. President, In the past months I have spoken many times about the critical link between trade and the environment.

The NAFTA is a very good example. In strictly economic terms it is good for the United States. It will raise our rate of growth, help us export to a growing market, and create a net of 95,000 or more new jobs in the United States. And I am very pleased that the House passed the agreement last night.

It is a good agreement. But without the environmental side agreement, it was not good enough. It would have promoted development, but not sustainable development. The maquiladora program shows why. It created a lot of activity on the border. But because it came without any environmental enforcement provisions, some firms saw it as a way to evade environmental laws. And it caused a disaster on the border that will cost us as much as $30 billion to clean up.

With the side agreements, NAFTA will mean sustainable development. But it is just a beginning. All over the world, we face environmental catastrophe.

Unprecedented growth in the Pacific rim, overpopulation and poverty in developing countries all threaten not only the ordinary people of those countries, but the global environment and America itself.

ENVIRONMENTAL CRISIS IN EASTERN EUROPE AND THE FORMER SOVIET UNION

Nowhere is the problem worse than in the former Soviet Union and Eastern Europe. And nowhere is the need and opportunity to make our trade and foreign aid policies work for sustainable development greater than in these countries.

In his book "Ecocide in the USSR", Murray Feshbach writes:

> 70 million Soviets face life-shortening diseases from air that carries [more than] five times the allowed limit of pollution, and almost three-fourths of the nation's surface water is polluted.

That is a regionwide statistic. The catalog of individual environmental crimes and disasters is, if anything, even more shocking. Here are just a few:

The Aral Sea was once a source of fish and water for all of central Asia. Drained by intensive irrigation for cotton, it is now reduced to a third of its original volume, and its dry bed scatters salt and chemical waste across the region.

In the 1950's and 1960's, a nuclear bomb factory filled Russia's Lake Karachay with 1.2 billion curies of nuclear waste. That is 24 times the amount of radioactive debris spewed out by the Chernobyl reactor.

Since 1989, 73 former Soviet cities have suffered air pollution more than 15 times the allowable level.

Untreated human and industrial waste from cities along the Baltic Sea has caused diseases in local children and fish kills offshore. The Baltic fish catch fell from 777,000 tons in 1983 to 331,000 tons in 1989.

And when, back in 1988, a polling firm asked the citizens of a Russian city about their worst grievances with the government, they did not cite the KGB or the Communist Party—they said it was the industrial pollution which had made it impossible for them to go out in the forest to pick mushrooms.

This is a partial list. The full accounting must wait for years—since today these countries lack even the equipment to find out how polluted they are.

FOREIGN AID AND THE ENVIRONMENT

We rightly view the success of democracy in Eastern Europe and the former Soviet Union as crucial to world peace and economic development. So this year, America will send $2.5 billion to help Russia and the former Soviet Republics. We will send tens of millions more for Poland and other Eastern European nations. If this money is well spent, it is a good investment. But how will it be spent?

Much of it will build and repair infrastructure. It will lay new roads, put new powerplants on lien and set up new communications systems.

In principle this is all to the good. But in practice, if it is not carefully thought out, it could have consequences like those the maquiladora program had on our border. So if our aid is to work, it must be guided by the principle of sustainable development.

We know from our own history, and from watching the suffering of these countries, that you cannot sustain reckless industrial growth. Failing to

protect the environment today means slower growth, higher health care costs, and expensive cleanups later on. Our aid to Eastern Europe, Russia, and the other former Soviet Republics must take this into account.

HELPING NEW DEMOCRACIES AND OURSELVES

Rebuilding these countries is a foreign policy priority. It is also an economic and environmental opportunity. Our firms lead the world in many environmental technologies. And we have the best environmental infrastructure in the world. If we think ahead, environmental aid can help us create jobs and strengthen our own economy while it helps the new democracies.

This means our aid should invest in new, efficient sectors like wind and solar energy, clean manufacturing and mass transportation. And it means we should apply American expertise and technology to cleaning up environmental problems.

Mr. President, we cannot let this opportunity slip away. We must strengthen our economy. We must do what we can to protect the global environment. And we must lead the world down the path of sustainable development. We can do all three with foreign aid policies that are based on sustainable development. Our aid to the new democracies gives us a chance to start.

Mr. RIEGLE. Mr. President, earlier today I spoke about my opposition to NAFTA. At this time, I would like to include in the RECORD articles from newspapers and magazines that further discuss the reasons for my opposition.

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

[From the New York Times, Nov. 14, 1993]

NAFTA AND JOBS: IN A NUMBERS WAR, NO ONE CAN COUNT

(By Louis Uchitelle)

If Congress gives in and approves the North American Free Trade Agreement, then the Clinton Administration undoubtedly will proclaim a new era for jobs. More than 400,000 already have been created from the expanding trade with Mexico and many more will come—unless the President has his math mixed up. But tens of thousands of jobs might in fact have disappeared, as the AFL-CIO insists. Could they both be right?

Probably they both are wrong. Abundant evidence is emerging that jobs are shifting across borders too rapidly to declare the United States a job winner or a job loser from the trade agreement. Counting the gains and losses could add jobs one year and subtract them the next, with this pattern persisting into the 21st century.

"The employment impact over the long run is likely to be small," said Robert M. Solow, a Nobel laureate in economics who favors the treaty, whatever the job count, on the ground that free trade is good policy.

But as the issue goes before the House of Representatives this week, millions of Americans are insecure about their jobs. That has made job creation the principal criterion for judging the free trade agreement.

The problem is that no one has measured the job flow with any precision. There has been no comprehensive head count since Mexico first began in the mid-1980's to allow American companies to operate in Mexico as if that country were part of the United States.

Rather than a head count, formulas are used—and perhaps because of their errors, they have failed to resolve the arguments over free trade. Economists feed the formulas into computers to simulate the impact of an open border on jobs. These simulations mostly conclude that the trade agreement will have created between 30,000 and 170,000 new jobs in the United States five years from now.

But the simulations make assumptions that are not always true. Many assume, for example, that American companies building factories in Mexico won't stint on investments in the United States. And that is an assumption that the AFL-CIO calls hocus-pocus.

What the union movement zeroes in on, instead, are the 500,000 low-wage workers in American-owned assembly plants in Mexico. These plants turn out products once made in the United States, at factories now closed.

"We think those jobs, in large measure, would have stayed at home if the Mexican Government had not made it so easy to move them across the border," said Mark Anderson, director of the AFL-CIO task force on trade. "And the free trade agreement locks in this arrangement."

The calculations go on and on. The Administration, resorting to another formula, declares that sure, jobs have migrated to Mexico, particularly low-wage assembly jobs, but exports to Mexico have also risen—and for every $1 billion rise in exports, American companies hire 17,600 people to make the exported products. That appears to be an overstatement at best. But it is this equation that allows the Administration to claim that expanded trade with Mexico has created more than 400,000 jobs.

On the plus side of the jobs calculation, at least from the United States' point of view, the Administration, the AFL-CIO and Congress seem to overlook a "bonus" from Canada. The free trade agreement between the United States and Canada, which went into effect in 1989, has encouraged the migration of thousands of jobs to the United States, where labor costs are lower than Canada's. In the overall job score, the migration from Canada has helped to offset losses to Mexico. That migration involves companies like Tridon Ltd., which shut down an auto parts operation with 550 workers in western Ontario and reopened it in Tennessee.

But again, neither the Canadians nor the Americans know with any precision how many Tridons there are and how many thousands of jobs might have migrated, although some Canadians are as angry about their losses as the AFL-CIO is about the shift to lower-wage Mexican workers.

"There is a dynamic in these free trade agreements that is always pushing wages downward," said Bruce Campbell, a research fellow at the Canadian Center for Policy Alternatives.

Putting aside the numbers, the free trade agreement has complicated the Administration's conduct of foreign policy in general. Pushing for passage, the President has repeatedly declared that American foreign policy would suffer a "profound setback" if Congress rejects the treaty.

One day later, Mr. Clinton goes to Seattle for the Asia Pacific Economic Cooperation forum, involving 15 nations. The agenda there is to talk, once again, about creating a free trade zone across the Pacific, very much like the North American Free Trade Agreement. Barriers that inhibit trade with Japan and China, for example, would come down, much as they have come down with Mexico.

Indeed, the Administration appears to have linked its efforts to increase exports elsewhere in the world to passage by Congress of the free trade agreement with Mexico. And in Congress, the job score, not foreign policy, is the big obsession.

In that debate companies like the Zenith Electronics Corporation represent perhaps the most difficult job counting problem. Some 10,000 Zenith jobs in the United States, mostly assembling television sets, have disappeared in recent years, only to reappear in Mexico as 18,000 jobs at Zenith assembly plants in that country. But Zenith continues to employ 6,000 Americans, and these jobs will be saved by the North American Free Trade Agreement, according to Jerry K. Pearlman, chairman of Zenith.

Many of the 6,000 work at factories in the Midwest that produce sophisticated TV tubes for the sets assembled in Mexico. The logic that saves their jobs goes this way. Right now, 3 million TV tubes are shipped to Mexico from the Far East. The free trade agreement, favoring North America, would raise tariffs of these Far Eastern tubes, and they would become too expensive. So companies that assemble television sets in Mexico would turn to Zenith and other American tube suppliers, and Zenith's tube sales would rise.

"We are already expanding our tube operation and that will mean 200 to 300 more American jobs for us," Mr. Pearlman said.

He took the argument one step further. Offering a theme frequently heard in the treaty debate, he argued that Zenith's 6,000 jobs in America might not exist today if Mexico had not gradually dismantled tariff barriers, allowing companies like Zenith to set up Mexican assembly plants so easily and staff them with low-wage workers.

"Without Mexico, we might have gone to the Far East to assemble television sets," Mr. Pearlman said. The tubes might then have been purchased from Far Eastern manufacturers, and the American operation shut, he added.

The Smith Corona Corporation complicates and skews the job count in another direction. Its actions challenge the Administration's contention that for every $1 billion of exported merchandise, nearly 17,600 jobs are created, on average, to produce the goods. Without such formula, and the big job count that it produces—over 700,000 based on total American exports to Mexico and not just the rise since the late 1980's—the trade agreement might be even harder to sell to Congress.

SAME SUPPLIES

But are the parts that are exported to Smith Corona's new typewriter plant in Mexico really exports? Until recently, Smith Corona purchased the same parts from American suppliers, who shipped them to the company's plant in Cortland, N.Y. That plant has closed, in favor of the Mexican facility. And the parts purchased from the supplies for Cortland are being rerouted to Mexico. The rerouting makes them job-creating exports, although the suppliers have not necessarily added workers.

"It is true that exports to Japan or Germany create jobs, but when nearly half of what we export to Mexico comes back as assembled products, that means that the trade agreement is getting credit for jobs that always existed," said Harley Shaiken of the University of California at Berkeley, an expert on Mexican labor issues.

Whatever the counting problems, the count seems certain to keep changing. Wal-Mart, for example, recently opened a super-center in Mexico City, and it has 13 other big stores in Mexico. Most of the merchandise is purchased from suppliers in the United States, but Wal-Mart also stocks its shelves with goods made by American companies at their Mexican factories. As these goods fill more and more Wal-Mart shelves, jobs should rise in Mexico and fall in the United States.

The free trade agreement also encourages some American companies to come home. The National Association of Manufacturers, in a recent survey, turned up seven companies in this category, companies that eliminated jobs in Mexico and recreated them the the United States. One of them is the McIlhenny Company, which has manufactured tabasco sauce in Mexico.

The plant had been located there to get around Mexican restrictions, just as Japanese auto companies put plants in the United States in the 1980's to get around quotas that limited imported Japanese cars. But now the Mexican restrictions are gone, and McIlhenny has shifted production to a Louisiana plant, deciding that it is more economical to serve both the United States and Canada from a single American factory.

However vague the numbers are, the jobs debate seems to have become a vehicle for venting other, harder-to-express concerns. The Zenith case, for example, illustrates the labor movement's main objection to free trade. More important than the job count, the approval of the treaty would be another defeat for labor in its struggle with management, says Mr. Anderson of the AFL-CIO. Companies gain the flexibility to move to Mexico if their American workers become too demanding, particularly over wages.

"What is unstated in the debate is that you are adding 50 million low-wage Mexican workers, many of them skilled, to the United States labor force," Mr. Anderson said. "They are not located across the Pacific, but in a country that is attached to ours, as if it were another state."

The unsteady American economy also seems to fuel the debate, in a nation where layoffs are now so commonplace. "We Americans have no confidence in the economy's future and that is making everyone anxious about Nafta," Professor Solow said. "If you are feeling genuinely nervous about life, then every time you cross the street, you are afraid you are going to be hit by a car."

The Canadians share this nervousness. The C.D. Howe Institute in Toronto says that about 50,000 Canadian jobs have disappeared as a result of the five-year-old trade agreement, with an unknown number of them gone forever.

American companies like the Gerber Products Company and the Gillette Company, for example, closed plants in Canada and turned to supplying their Canadian customers through exports, mostly from American factories.

Gillette phased out 590 jobs in Canada but created "no new jobs" in the United States, a company spokesman said. Still, the stepped-up razor production may have avoided layoffs in the United States—a plus for America in the job count that never stops.

[From the Wall Street Journal, Nov. 1, 1993]

CLINTON URGES FIRMS TO KEEP JOBS IN U.S.

(By Asra Q. Nomani)

WASHINGTON.—The Clinton administration is urging U.S. companies to pledge not to move jobs to Mexico if the North American Free Trade Agreement passes, but corporate America is balking at the request.

Administration officials said they are seeking such commitments to dispel widespread worries that trade liberalization in Mexico will open the floodgates for U.S. companies attracted to the low wages there. Although officials privately express doubts about the success of this effort, such corporate assurances would be particularly timely as the highly charged Nafta debate winds down before the House's expected vote on the pact Nov. 17.

William Daley, who is coordinating the White House campaign as Nafta "czar," said administration officials have raised the issue with a number of corporations and trade groups in meetings, briefings and phone calls. Those contacts began a couple of months ago, officials said, and the administration has revisited some of these companies recently. "There has been some interest, but no commitments," Mr. Daley said in an interview.

U.S. officials are secretive about which companies they have had the discussions with, but acknowledge the question has been broached with the Big Three auto makers, Chrysler Corp., General Motors Corp. and Ford Motor Co., which Nafta opponents have targeted as prime Candidates to relocate manufacturing jobs to Mexico. While making certain assurances that Nafta won't cost jobs, none of them have gone as far as administration officials would like.

"Companies have different reasons as to why they wouldn't consider" such pledges, said Mr. Daley. "Primarily, it's that businesses don't like to make blanket comments in a political realm. Companies that don't have any interest in moving anywhere still don't want to get in the middle of political debates."

The administration is suggesting U.S. companies issue commitments that they would relocate operations in Mexico back to the U.S., or that they would boost U.S. operations in response to increased exports to Mexico. They've secured some statements. Some companies, such as Ace Hardware Corp.; Springs Industries Inc. and Tyco Laboratories Inc., have said Nafta will prompt the creation of more jobs at their companies. Chrysler and Quaker Oats Co. have said Nafta wouldn't cost jobs at their U.S. operations. But the assurances aren't as plentiful and ironclad as many U.S. officials would prefer.

At the request of certain lawmakers, U.S. companies have even been asked if they would sign a version of the Sullivan Principles, guidelines laid out years ago for U.S. companies doing business in South Africa. The guidelines, devised in response to boycotts against companies that did business in South Africa, required nondiscriminatory business practices. But companies have balked at signing a new agreement, saying that the Sullivan Principles started as voluntary agreements and became mandatory, and they fear the same would happen with any Nafta-related guidelines.

Harry Freeman, a former American Express Co. executive and pro-Nafta trade consultant working with U.S. corporations' lobbying effort, said the idea of making pledges has fallen flat at Nafta strategy sessions he's participated in, because "It's foolish" from a corporate perspective.

"It's full of hazards to make a politically motivated announcement on a business matter which hasn't yet been decided," he said. "It gets you in trouble with your employees and your shareholders. You're asking for trouble."

Jim Jontz, who heads the anti-Nafta lobbying group Citizens Trade Campaign, said, "I don't think the public would believe it even if the companies did swear up and down that they wouldn't leave the U.S." Mr. Jontz, a former Indiana congressman, added, "The fact that they aren't going to move plants to Mexico is even more fuel on the fire."

Overall, corporate America hasn't gotten rave reviews for its part in pushing for congressional support for Nafta, which has to be cleared by both the House and the Senate. The House vote is considered a tossup, and many lawmakers are pulled by labor's argument that Nafta will be a job-loser.

In a speech Friday at the John F. Kennedy Library in Boston, Mr. Clinton repeated a refrain for companies to support a broad program to retrain workers who lose their jobs as a result of Nafta. He argued that companies "had no right to ask the American people—any of them, even one of them—to sacrifice unless we are going to make a common investment."

In a satellite "town meeting" today set up by the U.S. Chamber of Commerce, Mr. Clinton is readying to argue that opening the Mexican market is a crucial part of improving U.S. competitiveness in the global marketplace. His key point: that Japan and Europe will capture the Mexican market if the U.S. doesn't.

[From Challenge, July-Aug. 1993]

THE NAFTA ILLUSION

(By Jeff Faux)

Asking an economist to be part of the opening of a conference on the NAFTA proposal is like asking Neal Bush to address a conference on savings and loan deregulation; there is a lot of damage to explain.

Indeed, if NAFTA goes through as presently negotiated, and with side agreements only designed to paper over its fundamental weaknesses, there will be a lot of damage to explain. It is acknowledged widely, even by supporters of NAFTA, that in the United States, jobs will be lost, community tax revenue will shrink, wages will be reduced, and environmental standards will be undercut. It is admitted also by supporters that the damage to incomes and jobs will be concentrated on those who are least able to adjust—workers in the bottom two-thirds of the family income distribution. Although the vulnerable population includes many more people than those more traditionally thought of as disadvantaged, NAFTA will reduce especially employment in our troubled cities and areas of rural poverty. In a society that professes to believe that "the best anti-poverty program is a job," a policy that will further shrink jobs for low-income people must be examined very, very carefully.

IF IT AIN'T BROKE, DON'T FIX IT

Knowledgeable people provide detailed analysis of the economic, environmental, and social costs of NAFTA, but I want to focus here on the potential benefits. Given the grudging admission by NAFTA supporters that there will be substantial human and economic costs, the case for the Agreement now rests entirely on the proposition that the costs are compensated for by the long-run economic benefits to the United States. We have all read the editorials that repeat the conventional wisdom: "Many working families and communities may be hard-hit, but in the long run, most people will be better off." Among many Democrats, there is the feeling that the problem is simply that George Bush was insensitive to the "short-term" problems of workers and the environment. So, if we can ease just the short-term pain, the Agreement will be a long-term

boon for Americans. I want to challenge that assumption.

First, a comment about the debate itself. There is a curious notion implicit in the inside-the-beltway discussion over NAFTA that it is up to the critics to prove that NAFTA is a bad deal. This is curious because, in the natural order of public debate, the burden of proof is on the advocates of a proposal. As the old saying goes: "If it ain't broke, don't fix it." So, I think we should set straight the terms of the debate. Given the certainty that NAFTA will cause economic and environmental loss to a significant number of Americans, the burden of proof is on those who advocate this proposal. They must tell us what is broke, and how NAFTA will fix it.

On neither count have the supporters of NAFTA made their case. They made many claims during the "fast-track" debates of two years ago. Today, after sifting through the evidence for long-term economic gain, one simply cannot come up with a credible economic argument that the benefits are worth the costs and the risks. And, believe me, if the benefits were there, the supporters would have found it. For at least two years, the economic and statistical resources of the U.S. Government, the Business Roundtable, and the largest, most generously supported think-tanks and economics departments of universities in America have devoted time, energy, and money to find all the identifiable benefits of NAFTA to the United States. The rewards of their efforts are embarrassingly trivial. I believe that there are few benefits to the people of Mexico and Canada as well, but it is not my place to address their situation. Representatives of both nations are analyzing their respective situations, and they can speak for themselves.

THE BENEFITS OF NAFTA?

Over the last two years, I have debated and discussed NAFTA with academicians, members of Congress, business and labor leaders, and numerous lobbyists in the pay of the Mexican Government. These are the major assertions they have made. And I will spell out why those assertions do not hold up.

First, there is the assertion that NAFTA, in the long run, will create many more jobs than it will destroy. The evidence does not support this claim. The U.S. International Trade Commission, after making several attempts to come up with estimates of big job gains, and after combing through all the economic models on this point, found that the highest estimate of a potential NAFTA contribution to employment in the United States was—are you ready?—eight one-hundredths of one percent.

The Hufbauer-Schott study, regarded as the definitive case for NAFTA, guesses that 316,000 jobs will be gained and 145,000 lost in the first five years—for a net increase of about 170,000 jobs. There are two things you should know about this study. First, it turns out that most of this job gain has already occurred because of the opening up of Mexico's market. NAFTA itself adds only about 25,000 more jobs. Hufbauer and Schott also assumed that, although foreign investment to Mexico would grow substantially, none of it would be diverted from the United States—a fact which few people find credible. But the most interesting thing about this study was what was not in it. As Thea Lee of the Economic Policy Institute discovered, the published version of the report omitted a table from an earlier manuscript that showed a job loss over the long term from NAFTA. One of the authors later said they dropped the table from the book because there wasn't enough room.

Note that I am focusing on the estimates of job gains by public advocates of NAFTA. Other reputable scholars have estimated job losses of 500,000 to almost one million.

The reason even the supporters can't find long-run job benefits for the United States in this agreement is that the current trade surplus with Mexico cannot last. The current surplus is a result of the fact that Mexican producers—many of them American-based firms—are now importing machinery and equipment and other capital goods. They are installing these capital goods in their new factories, which are being built in order to produce more consumers goods for export to the United States. Currently, the United States has a trade deficit with Mexico in practically every major category of consumer goods. Moreover, the Mexican peso is now overvalued; and that is now making U.S. exports cheaper. To some degree, this reflects the Mexican Government's desire to keep luxury imports inexpensive for the influential upper classes. After the next election, the peso will be devalued: that will help Mexican exports and hurt ours.

Second, there is the assertion that free trade will create higher-wage jobs for U.S. workers because Mexican workers will take jobs at the lower end of the skill ladder while U.S. workers will move up the ladder to higher-wage jobs. Again, there is no evidence for this claim. Historically, U.S. workers who lose jobs due to imports fall down the ladder, or off the ladder. Neither the ITC studies nor the Hufbauer-Schott report can substantiate this assertion. The latter flatly concludes that there will be no net change in the composition of wages one way or another. And Professor Ed Leamer of the University of California, a well-known advocate of free trade, concludes from his research that the effect of NAFTA will be an average wage loss of $1,000 per worker for seventy percent of the labor force.

This history of the NAFTA debate about wages is interesting. At the time of the fast-track vote, NAFTA advocates were dismissing concern over the large gap between U.S. and Mexican wages. Economic theory, they insisted, says that low wages reflect low productivity. From this, they argued that firms were not moving to Mexico for low wages, but to take advantage of the tiny Mexican consumer market. But evidence from the world now clearly shows that while the gap between U.S. and Mexican wages is enormous, the gap in productivity is much smaller. Moreover, in a growing number of industries, labor productivity in Mexico is equal to or, in some cases, higher than labor productivity in the United States. The work of Professor Harley Shaiken at the University of California at San Diego and an EPI study by Walter Russell Mead have been particularly useful in dispelling this myth. I would also recommend the several recent articles on this question by New York Times reporter Louis Uchitelle.

A few weeks ago, I accompanied Majority Leader Richard Gephardt and some other Members of Congress on a trip to the Maquila area in Tijuana, Mexico, which is south of San Diego. Unannounced, we went to a Sanyo plant that makes television parts and assembles television sets for shipment to the United States. We asked the manager of that plant, who is also an international vice-president of Sanyo, how labor productivity in his plant compared with that in the sister Sanyo plant in the United States. He replied that, after four and one-half years, productivity in the Mexican facility was one hundred percent of that of the U.S. plant.

Next question: "What is the ratio of entry wages in your plant versus entry wages in the United States plant?" Without blinking an eye, he said, "One to ten." This was no theoretical economist making that statement. This is the guy who runs the plant in Tijuana and signs the checks.

This point alone undermines much of the economic case for NAFTA. When confronted by the facts, economists who support NAFTA have no real answer. "It's a mystery," one economist said to me the other day. Another said weakly, "Well, it sort of happens like that under capitalism, I guess."

Third, there is the assertion that NAFTA will slow immigration. The same claim was made thirty years ago when the Maquila agreement with Mexico was made. The Maquiladora program actually increased immigration. It drew workers to the border areas (where most of Mexico's growth will continue to investors. Second, the assertion that history vindicates free trade is wrong. At best, history is ambivalent on this point. In some cases, and under certain controlled conditions (such as the integration of Western Europe), freer trade has been beneficial. But in more cases than not, the major industrial nations of the world developed their economies behind high walls of protection. This not only includes Japan, Korea, and Taiwan in our own century, but the United States of America (a thoroughly protectionist nation for over a hundred years prior to the end of World War II) as well. Third, in order for the free-trade case to work, you need some very rigid conditions, even in theory. If the following conditions are not met, you simply cannot tell what the effect of free trade will be. One condition is full employment on both sides of the border. I leave it to you to decide whether or not we have that condition fulfilled in Mexico, the United States, or Canada. Another condition is no mobility of capital between the countries. Again, it is obvious that this condition is not met.

But what if we give the proponents the benefit of all the doubt about free trade and NAFTA? In other words, what would the net benefits be to the United States if, for the sake of argument, we accepted their unrealistic assumptions?

Here is where it gets interesting. Economic theory tells us that the benefits of free trade will show up in lower prices to the consumer. This is a result of assuming that larger markets increase the economies of scale and increase competition.

Now, if I were to ask everyone in this room, in this city, or in this country to list on a piece of paper the ten major problems with the U.S. economy, where would they place the problem of the U.S. consumer market not being big enough? To ask the question is to answer it. We have, by far, the largest consumer market in the world, and foreigners who come here marvel at the high level of retail competition in the United States. If ever there was a trivial economic issue, this is it. Indeed, NAFTA is a solution in search of a problem.

Again, let's accept all the assumptions of the proponents and ask what is their estimate of the benefits to the American consumer. According to Hufbauer and Schott, the total "efficiency" benefit to American consumers comes to $2 billion. This is $2 billion in a $6 trillion economy. It works out to $8 a year for the average American (or two cents per day)—a number that is so small that you cannot find it in the economic data. It is smaller than the statistical margin of error in the Gross Domestic Product. Statistically speaking, it is nothing.

In the end, therefore, the best economic case they can make for NAFTA is that, if you accept all the assumptions of its supporters, you may get two-cents-a-day's worth of lower prices to the average consumer. This is the fabled long-term benefit that we are told justifies the risks of unemployment, community dislocation, environmental degradation, increased social disruption in Mexico, and the expanded immigration that will inevitably result.

But, there is one final desperate argument for NAFTA. It is not an economic argument; it is a political one. It is reflected in a discussion I had with a member of Congress who, after acknowledging that the economic case was weak, said, "But we have to do something for Salinas, don't we?" The sensible response to that question is to ask, "Why?"

DO IT FOR SALINAS

They reply that Salinas is a "good guy." He is a reformer. The people around him are young and smart, and are dedicated to the free market. The lobbyists in Washington virtually swoon over these "best and brightest" of all Mexicans. As one Washington lobbyist who works for the Mexican Government said to me about Salinas, "He's one of us. He went to Harvard!"

I suppose for some people that is enough of a credential to justify almost anything. But before you buy it, take a closer look. For example, read what the London Economist (a solid supporter of free trade) says about Salinas and his associates: "The ugly truth is that Mr. Salinas and his band of bright technocrats, adored though they are by the great and good on the international-conference circuit, wield power courtesy of PRI-fixers and worse in the countryside." It adds that, "Mexican politics is not without its violent side," and it refers to claims that 164 members of the opposition PRD party have been murdered since 1988.

I cannot judge these charges, nor do I know the truth about what goes on in Mexican politics behind the public-relations imagery. I am also certain that the members of Congress who are so solicitous about the welfare of Mr. Salinas similarly are ignorant of the murky details. But no one disputes that Mexico is a one-party dictatorship, and that it lacks free trade unions, an autonomous environmental movement, and an independent judiciary. It is also obvious that Salinas and the PRI are depending on NAFTA to secure their power for decades to come. So, the idea that, somehow, we might influence democratic reforms after we have rewarded the dictatorship with permanent economic benefits that, in practical terms, we can never take back, flies in the face of everything we know about human nature and politics. You don't change behavior by rewarding it.

NAFTA supporters gravely warn that Mexico will have an economic crisis if Salinas suffers a defeat. But Mexico is going to have a crisis with or without Salinas, and with or without NAFTA. The peso is overvalued, and real-estate markets and financial markets are going through speculative excess. These bubbles will burst as soon as the NAFTA issue is resolved. And what is the catastrophe if they do? Except for Americans who have bet on Salinas, it won't cause a ripple in the real economy of the United States, and investment will continue to flow to Mexico because labor will remain cheap. Salinas and the PRI may lose face; but how much pain and suffering is it worth to the bottom two-thirds of the U.S. labor force to keep a Harvard man and his cronies in political power in Mexico? And the notion, as some have asserted, that if we reject NAFTA, the United States won't be trusted in the world any more, is absurd. Indeed, it's not a bad lesson for other nations to learn that the last word on treaties and agreements lies with Congress, and that it is unwise to become partisan in U.S. politics—as Salinas' government did in the last election.

THE SIDE AGREEMENTS

Finally, can we fix NAFTA with side agreements? I am skeptical, but the President wants to try. At the very minimum, fixing it is going to require tough enforcement standards on labor and the environment—including a path to harmonization of minimum wages in the export sectors. It's also going to require an independent trinational commission to enforce those standards. And it's going to require us to pay for the costs of labor adjustment and environmental repair and upgrading out of taxes and tariffs on the increase of trade.

But supporters say that such demands will violate national sovereignty. Sorry, but with this Agreement as written, we have already crossed that bridge. Mexico's sovereignty has been violated by detailed requirements as to how American investors in Mexico are to be protected. U.S. state sovereignty (we are, after all, a nation of sovereign states) has also been violated by this Agreement that overrides state authority on issues from transportation to environmental regulation. U.S. national sovereignty has also been impaired. For example, the United States cannot have an industrial policy if NAFTA goes through, because the treaty prohibits policies that favor and subsidize domestic industries.

Let me leave you with the following thought: Rejecting NAFTA does not relieve us of the responsibilities for developing North America in concert with our neighbors to the North and to the South. I favor North American economic integration, but, in the words of Reverend Campbell whose wise words preceded me this morning, one that aims for "justice and sustainable development." This Agreement accomplishes neither goal. Any objective analysis will show that the benefits simply do not justify the costs.

[From the Kalamazoo Gazette, Oct. 13, 1993]

NAFTA (NAFIA) IS ABOUT INVESTMENT AND JOBS, NOT TRADE

(By Frederick R. Strobel)

As the current debate on NAFTA heats up, it should be noted that the treaty as such, North American Free Trade Agreement, is a misnomer. It should be labeled NAFIA, North American Free Investment Agreement. After reviewing a number of economic studies, I have come to this conclusion. Here is my reasoning.

First, trade with Mexico is already at a substantial level. In fact, such trade is now over $60 billion with the United States running a modest surplus. However, this hides the fact that many U.S. exports to Mexico have been in the form of capital equipment as American manufacturers move south. Once this equipment is put into place, it will begin manufacturing goods for export back to the United States.

Second, much is made about the removal of tariff barriers between the United States and Mexico to encourage more trade. However, tariffs are currently very low. U.S. tariffs average about 3.5 percent and Mexican tariffs average about 8.2 percent. Dropping tariff barriers alone is not what will increase trade.

Nonetheless, spokespersons for the Clinton administration and other independent economists still claim great benefits for the United States from the passage of NAFTA, generally from two sources. First, it cannot be denied that there will be some lower prices on goods in the United States and Mexico due to specialization as economic theory would predict. Second, pro-NAFTA folks frequently quote studies claiming mutual employment benefits. Approximately 15 studies have examined the question. Unfortunately they all tend to follow a similar methodology with models containing very limited assumptions.

Most of the studies commonly quoted were commissioned by the Bush administration and carried out under the auspices of the U.S. International Trade Commission. The reader can be the judge of the realism of their assumptions.

The models typically assume that investment patterns between the United States and Mexico, and the rest of the world and Mexico, will not change. In other words, there will be no increase of U.S. investment in Mexico, and investment that countries such as Germany, Japan and the United Kingdom would have made in the United States will not be diverted to Mexico! Second, the models typically do not allow for depreciation of capital goods, factories and property values in U.S. communities where firms have left to go to Mexico. Third, the studies assume constant employment, that is, anyone who loses a job in the United States as a result of investment diversion will be automatically re-employed immediately.

The most optimistic study shows a gain of 130,000 jobs in the United States. Much bigger gains in job growth go to Mexico. However, the Congressional Research Service of the Library of Congress reports that one study which did not allow for investment shifts, showed a United States job loss of 900,000 workers. This model considers potential investment shifts to Mexico at double the trend of the late 1980s.

Further, Pat Choate, a Washington-based economist, estimates that 5.9 million U.S. manufacturing production jobs are at risk from relocation to Mexico or due to low wage competition from Mexican-based facilities under the NAFTA.

Finally, Ricardo Grinspun, a Canadian economist, found that past records of similar models predicting the economic effects of the U.S. Free Trade Agreement with Canada had no correlation whatsoever with the results of those predicted 2½ years earlier.

Another fallacy is the claim that NAFTA would prevent or reduce Mexican illegal immigration to the United States. However, because of the enormous advantage that American agriculture has it is estimated that opening up free trade on one item, namely corn, will displace some 1.4 million Mexican farm workers. The total job gain to Mexico of the free trade agreement is estimated at 540,000. If many of these farm workers were immediately re-employed, Mexico will still have a net new unemployed farm population of 860,000 people.

Where will these workers go? If the past is any indicator, they will illegally migrate north, thus further depressing U.S. wages and taking U.S. jobs. It is instructive to note that employment in the maquiladoras—which assemble goods from U.S. components south of the border for re-export to the United States—grew by 431,000 between 1984 and 1991. Over that period, however, U.S. manufacturing jobs fell by over double that

amount, namely 951,000. In 1992, American manufacturing employment fell by another 325,000.

Thus, it is my prediction that the following will occur if a NAFTA is signed. First, U.S. manufacturers will accelerate their movement of plant and equipment to Mexico driven by both wages and environmental concerns. Second, foreign investment previously aimed at the United States will also be diverted to Mexico. Some argue that this investment would have occurred anyway with a free trade treaty. However, this overlooks the fact that a massive U.S. presence in Mexico will attract still other foreign investment. Why? All will be under the military protection of the United States.

The lot of Mexican workers, despite the real economic development, is a miserable one. Real wages in Mexico have fallen by 38 percent since 1982. Union leaders in this one-party state in the recent past have been jailed. An insurrection requiring U.S. military assistance is not inconceivable.

NAFTA may being lower prices to the American consumer. However, the American consumer whose spending comprises 66 percent of the gross national product will only spend freely if he or she has an adequate income. Lower prices are a secondary consideration if that income is seriously threatened by NAFTA.

[From the Los Angeles Times, Sept. 20, 1993]

THE STICKER PRICE DOESN'T ADD UP

(By Harley Shaiken)

Proponents of the North American Free Trade Agreement argue that this accord will open a vast new market to U.S. firms and create hundreds of thousands of U.S. jobs in the process. Much of this argument is based on two misleading statistics: 700,000 U.S. jobs depend on exports to Mexico, and the average Mexican purchases $450 of U.S. goods a year.

Where does the 700,000 figure come from? The Commerce Department says that each $1 billion in exports supports 17,000 U.S. jobs. Multiply 17,000 by $40.6 billion, the amount of U.S. exports to Mexico last year. The implication is that 700,000 U.S. workers are employed feeding a Mexican consumer market.

The reality is far different. Most of these jobs are producing products for the U.S. market; they only "visit" Mexico for further processing. Since Mexican consumers never see these products, Mexico serves more as an export platform than a consumer market.

Let's examine this job creation estimate by using Mexican government data, which last year showed U.S. exports to Mexico of $44.2 billion—higher than the U.S. government's numbers—translating into about 750,000 U.S. jobs. However, $14 billion of these exports are parts shipped from U.S. plants to Mexican export assembly plants—maquiladoras—and then immediately back to the States. These transactions account for about 240,000 jobs, almost one-third of the total.

Many other Mexican-factories, such as auto engine plants, export to the United States but are not formally designated maquiladoras. These firms operate under a new Mexican government program called PITEX, the Spanish acronym for Temporary Import Permits for Export Products, which accounts for at least $7 billion more of U.S. exports to Mexico. This means an additional 120,000 U.S. jobs not related to the Mexican market, although this figure is undoubtedly low since many firms do not register under this program.

Another $6.6 billion in U.S. exports is capital goods—robots, lathes, computers—that in many cases will build products for export back to the United States. These goods involve 112,000 American jobs; if half result in products coming into the United States, then another 56,000 jobs have little to do with the Mexican consumer market.

At most, about 330,000 U.S. jobs supply the Mexican market itself.

The accounting behind the U.S. job "creation" numbers is bizarre. Example: When Smith Corona moved its typewriter plant from upstate New York to Tijuana, 850 U.S. jobs were eliminated. Let's say 2,000 workers at supplier plants produced parts for the New York facility. When these parts are shipped to Tijuana, the workers are reclassified as jobs "created" in support of the Mexican market. The loss of 850 jobs magically becomes a gain of 2,000.

Many more U.S. jobs have moved to Mexico than the 300,000 or so supplying the Mexican market. Overall, $1 billion in Mexican exports creates far more than 17,000 jobs. The maquiladoras last year, for example, produced $4.7 billion of value in Mexico and generated more than 500,000 jobs—that's 106,000 jobs per $1 billion of exports. This alone, without the rest of Mexico's export sector, dwarfs the number of U.S. jobs that actually produce goods for Mexico.

These numbers underscore Mexico's role as an export platform. Mexico is an excellent place to site a plant, since productivity and quality in new factories are often at U.S. levels, but it is a far less robust consumer market than is often portrayed. The tragic contradiction for both Mexico and the United States is that Mexicans who make televisions, autos and computers for Americans won't be buying these goods themselves. The average wage for Mexican maquiladora workers is about $1.15 an hour. At this rate, it would take about 6½ years of nonstop work for a maquiladora worker to buy a Ford Taurus—provided the worker doesn't eat.

How then does the average Mexican purchase $450 worth of U.S. goods a year? The answer is that the average Mexican doesn't. This figure is derived by dividing Mexico's total population into total U.S. exports to Mexico. If General Motors builds a factory in Matamoros, all of whose production is shipped back here, the import of new robots and computers by that factory counts as a "purchase" by Mexicans.

Increased trade with Mexico could bring real benefits to all countries in North America, but two very different kinds of trade are possible. One creates a low-wage export platform that throttles purchasing power in Mexico and threatens jobs in the U.S. The other approach would seek to expand purchasing power and the Mexican market to the benefit of people in both countries. NAFTA, with its weak labor side accords, does little to encourage Mexico to move in the direction of higher wages. A combination of government policies and lack of labor rights serves to artificially depress wages and, therefore, purchasing power, despite rising productivity. This kind of trade comes at the expense of Mexican workers and the middle class in the United States.

[From the Houston Chronicle, Feb. 22, 1993]

U.S. TRADE PACT GAINS SEEN AS TEMPORARY; EXPERTS: EMPLOYMENT WILL SUFFER

(By Keith Bradsher)

WASHINGTON.—The two most influential academic experts on the North American Free Trade Agreement, whose forecasts of short-term job gains were heavily cited by the Bush administration at congressional hearings and news conferences promoting the pact last year, have concluded that any net increase in job gains would evaporate after 15 to 20 years.

The two experts, Gary C. Hufbauer and Jeffrey J. Schott, who are both senior fellows at the Institute for International Economics in Washington have not included this conclusion in their new book on the pact, although they do mention that the short-term gains may not be permanent.

Schott said the long-term estimate was omitted because it relied on many complicated assumptions and because any economic forecast over such a long period was unreliable.

Hufbauer said that the long-term assessment was also omitted because the book was too long and the two men were in a rush to publish it. The book also mentions that the agreement's long-term effect on jobs are insignificant compared to the effects of broader economic trends.

While Bush officials relied extensively on the Hufbauer-Schott data, the Clinton administration, which has endorsed the pact contingent on completion of three supplemental agreements with Mexico, does not cite them.

The book, "NAFTA: An Assessment" (Institute for International Economics), was released on Wednesday. It repeated, with little change, the two men's forecast last year that, using 1990 job figures as a base, the pact would produce a net gain of about 175,000 jobs in the United States by 1995.

The long-term conclusion came to light because Hufbauer appeared on a panel of trade experts last month at a luncheon organized by the Women's National Democratic Club.

He distributed what was then a preliminary table from the book estimating that increased trade from the pact would provide jobs for 318,600 Americans by the year 2010, who would be producing goods for extra exports to Mexico that would not be possible without the reduction of trade barriers provided by the pact.

But the same table indicated that the agreement would also displace 324,000 jobs in the United States, as imports from Mexico replaced products made less efficiently by American factories, for a net loss of 5,400 jobs.

Schott said that the table was created only to analyze the effects of the pact on income distribution, not on overall employment, and had been used to determine that low-skilled workers and highly skilled workers would be equally affected by the agreement.

He said that he and Hufbauer had tried to figure out the effects on employment by industry if exports and imports each increased by $30 billion, roughly doubling their level in 1990.

The use of a $30 billion figure was arbitrary and not based on any computer modeling, Schott said.

Hufbauer said that the forecast of net job gains over five years assumed there would be a large American trade surplus with Mexico in 1995. The assessment of a tiny net job loss over the next two decades, he said, was based on the assumptions that Mexico's heavy dependence on foreign investment in the form of American factory equipment and other American exports, would fade as its economy grew and that imports and exports would be roughly balanced within 20 years.

[From the Economic Policy Institute, Oct. 23, 1992]

JOBS VULNERABLE TO RELOCATION DUE TO NAFTA: A STATE-BY-STATE BREAKDOWN

(By Thea Lee)

This study identifies those industries most likely to experience job losses if the North American Free Trade Agreement is ratified in its current form and then shows in which states and regions these potentially vulnerable jobs are located. This study does not predict the number of jobs each state is likely to lose, but only notes the present concentration of vulnerable jobs.

For the present purpose, we focus on gross job dislocation, rather than net. In other words, we do not calculate possible offsetting job gains as a result of NAFTA. The gross figures are important in determining the level of labor-market disruption likely to occur as trade and investment are liberalized further between the United States, Mexico, and Canada. Gross job loss figures can also be helpful in determining appropriate expenditure levels for worker retraining and adjustment assistance programs.

We identified eight industries that are likely to experience job loss if NAFTA is ratified. These are motor vehicles and equipment; electrical machinery, equipment, and supplies; apparel (plus miscellaneous finished textile products); food processing; furniture and fixtures (plus miscellaneous wood products).

Current trade with Mexico leads us to conclude that 7.4 million manufacturing jobs currently located in the United States are vulnerable to relocation to Mexico (either directly, as the parent company moves production across the border, or indirectly, as lower-priced imports displace U.S. production).

Again, it should be stressed that this is not a prediction of job loss: no one expects every single one of these jobs to move to Mexico in the next ten or even twenty years. The point is, however, that given the agreement Presidents Bush and Salinas and Prime Minister Mulroney negotiated, there are many reasons why the owners of factories producing these goods in the Untied States would be more tempted to relocate them to Mexico after NAFTA than before.

In some ways, these figures may understate the potential impact of NAFTA on the U.S. economy. Each one of the jobs we identified as vulnerable is linked to other supplier jobs that may also move to Mexico when the original job is lost. However, in the case of the United States and Mexico, this relationship is likely to be complex, rather than mechanical. For example, the U.S. textile and steel industries could move to Mexico to supply Mexican apparel and auto production respectively, but that is unlikely to occur in the near future, as the U.S. textile and steel industries are capital-intensive and highly efficient.

State/region/division	Vulnerable jobs as percent of State jobs	Number of vulnerable jobs
Northeast:		
New England:		
Maine	6.96	32,414
New Hampshire	8.60	42,560
Vermont	8.67	19,933
Massachusetts	6.61	158,812
Rhode Island	9.94	39,177
Connecticut	4.80	68,339
Middle Atlantic:		
New York	5.99	403,333
New Jersey	5.97	190,144
Pennsylvania	7.70	363,333
Midwest:		
East North Central:		
Ohio	9.31	406,667
Indiana	13.27	300,656
Illinois	7.87	380,000
Michigan	14.07	501,904
Wisconsin	10.29	212,259
West North Central:		
Minnesota	4.83	91,832
Iowa	9.27	103,735
Missouri	9.29	193,357
North Dakota	3.67	8,370
South Dakota	6.63	16,756
Nebraska	7.42	47,938
Kansas	5.10	50,759
South:		
South Atlantic:		
Delaware	8.16	24,123
Maryland	4.69	97,561
District of Columbia	0.50	1,158
Virginia	5.89	158,514
West Virginia	4.54	28,077
North Carolina	12.84	352,105
South Carolina	8.77	125,598
Georgia	7.84	203,402
Florida	4.77	233,333
East South Central:		
Kentucky	9.93	130,415
Tennessee	12.69	247,219
Alabama	9.70	148,669
Mississippi	12.86	120,428

[From the New York Times, Nov. 15, 1993]

A LOW-WAGE GAME PLAN

(By Samuel Bowles and Mehrene Larudee)

AMHERST, MA.—Americans justifiably worry that the North American Free Trade Agreement may provoke a flight of jobs to Mexico. But what's wrong with Nafta goes beyond lost jobs. In Mexico, Canada and the United States, even those seemingly unaffected by the agreement will be worse off if it is carried out. Nafta is Victorian economics and will foster Dickensian conditions.

Its proponents say the Nafta would open new markets for U.S. consumer goods. But more important, it would make it far easier for companies to move south and far more difficult for governments to enact coherent development policies.

The agreement would bind all three countries in the straitjacket of 19th-century free market economics, jeopardizing governmental efforts to promote long-term growth of productivity and better living standards throughout the continent.

And it would favor footloose corporations as they bargain with employees over wages and working conditions, with communities over taxes and environmental issues and with local suppliers over prices.

In October, when President Clinton sought pledges from major corporations not to move jobs to Mexico, not a single one signed up. Asked by the Roper polling firm in 1992 if their companies would "shift some production to Mexico . . . if Nafta is ratified," 40 percent of the top executives of U.S. manufacturing corporations answered that this was "very" or "somewhat" likely. For large companies, the figure was 55 percent.

Why do these companies need Nafta? Many have already moved to Mexico. But the agreement would greatly lower their risks, since it would lock the Mexican Government into business-friendly policies for the foreseeable future.

Supporters of Nafta say that few U.S. companies would actually make the move, preferring the vastly more productive American work force. But while average productivity in existing Mexican companies is relatively low, productivity and quality at new U.S.-owned companies there approaches that of those north of the border. Ford's plant in the town of Hermosillo has won quality awards for the Tracers and Escorts it exports to California.

For the boardroom, Mexico spells "workers," not "consumers": for every middle-class Mexican itching to buy a new U.S.-built car, there are dozens of low-wage or unemployed workers lining up for work at a sixth of U.S.-wages. Mexico's labor force is larger than the entire labor force in Michigan, Illinois, Ohio, Indiana and Pennsylvania combined. By contrast, the Mexican market, as measured by its gross domestic product, is smaller than New Jersey's.

No one knows how many U.S. jobs will be lost if Nafta is approved. No major studies of Nafta have estimated the number; following textbook assumptions, the models simply ignore the possibility that companies will move.

But the impact would be substantial even if, as seems unlikely, the flight of jobs were minor. What counts is not how many jobs actually leave but the fact that so many could leave. In the same Roper poll, 24 percent of business leaders candidly said that it was either very likely or somewhat likely that "Nafta will be used by [their] company as a bargaining chip to keep wages down in the U.S."

In Mexico, the battering ram that will keep wages down is not the threat to move but a flood of prairie-grown corn. It will bankrupt high-cost farmers, driving them to the cities in search of work and worsening an already severe labor surplus. Even if half a million new jobs open up in Mexico as U.S. companies move south, the number of displaced farmers will mount to twice and perhaps three times this number over a decade.

That would mean intensified competition for jobs and significant downward pressure on wages. Among the rosy projections offered by the pro-Nafta side, the assurance that Mexican wages will soar deserves the Pollyanna prize. Even Nafta supporters concede that the flow of grain south into Mexico will be matched by an increased northward flow of illegal immigrants in search of work. The Mexican labor surplus thus becomes a North American labor surplus.

But even Mexico cannot beat Sri Lanka or China at the low-wage game. None of the signatories to Nafta should try. The alternative—a high-wage, high-productivity strategy—requires the active involvement of governments at all levels. What boosts productivity is neither governments nor markets alone but a combination of market competition with effective intervention by a development-oriented government. The East Asian economic miracles should have pounded this lesson home.

Nafta would label many of the necessary governmental initiatives "barriers to trade" and could force their retraction. When in 1990 Ontario's provincial government proposed a universal public car-insurance system, U.S. insurance companies invoked the Canada-U.S. Free Trade Agreement and demanded $2 billion compensation. Ontario backed down. Any state in the U.S. that decided to convert to a single-payer health insurance program or to subsidize solar energy or recycling might suffer a similar fate.

Closer economic ties with the rest of the hemisphere are an essential part of any sound U.S. economic strategy. And protection of inefficient industries is no way to promote productivity in the long term.

But Nafta is a giant step down the wrong road. Its "let the chips fall where they may" low-wage game plan promises the continent not three nations but just two: the rich and the poor.

[From the Washington Post, Sept. 3, 1993]

NAFTA DELUSIONS

(By Jeff Faux)

The recent chorus of Post editorials and op-ed pieces supporting the North American

Free Trade Agreement reflects the widespread Washington delusion that the proposal is in trouble because labor unions, environmentalists and right-wing know-nothings are playing on the irrational fears of a public ignorant of economics. Nothing wrong with NAFTA, of course. George Will blames the opposition on "timid legislators" [op-ed, July 8]. The Post editorializes against a "new isolationism" [Aug. 18]. Gerald Ford complains that the White House is not making a hard enough sell [op-ed, Aug. 22].

But the Bush and Clinton administrations have been pitching NAFTA for three years. The Mexican government is spending at least $30 million to promote it, and U.S. corporations have added millions more. The interests behind NAFTA should save their money; polls show that the more average working people hear about NAFTA, the less they like it. Common sense tells them that they will be losers. They are right.

The central economic problem is that labor productivity in Mexico's export industries is typically 80 percent to 100 percent of U.S. levels, while wages are 10 percent to 15 percent. This encourages manufacturers to produce goods in Mexico for sale in the United States. It has already cost roughly 500,000 jobs here and downward pressure on wages.

The wage-productivity gap stems from the policies of the present authoritarian Mexican government. Through a variety of means, including use of the armed forces to intimidate workers and the establishment of business associations to fix wage rates, wages are kept low in order to attract foreign capital. The absence of an effective political opposition, an independent judiciary and independent labor and environmental organizations gives the government a free hand in economic policy. By guaranteeing Mexican producers access to the U.S. market in return for protecting U.S. investors against policy changes by future Mexican governments, NAFTA locks in the current low-wage policy.

Under such circumstances, free-trade models do not apply. Thus, despite efforts by NAFTA advocates to label all opponents as protectionists, it is perfectly consistent to be in favor of free trade and against NAFTA.

NAFTA supporters bombard us with a jumble of statistics. One op-ed writer says exports to Mexico are creating 400,000 jobs, another 700,000, two others, 800,000. About the jobs lost to imports from Mexico and the shift of investment from the United States to Mexico, there is silence. Supporters claim that the two-year-old trade surplus with Mexico "proves" that NAFTA will create jobs. But the surplus is not a result of trade liberalization. Rather it reflects an overvalued peso. Even pro-NAFTA economists have admitted that the peso is likely to fall 10 percent to 20 percent next year, which would more than wipe out all the advantage to the United States of eliminating Mexican tariffs. Moreover, the surplus is in capital goods, not consumer goods.

We are shipping machinery south to expand the capacity of Mexico's low-wage factories to produce consumer goods for sale back in the United States. The prize in NAFTA is not Mexico's market, it is Mexico's labor force, which is educated, disciplined and trainable. In fact, NAFTA provides more incentives for U.S. businesses to train Mexican workers than American ones; where labor is cheap to hire, it is cheap to train.

Thus, in the long run, NAFTA will undercut any chance we have to create a high-skill, high-wage American answer to global competition. It will encourage U.S. producers to compete by lowering wage costs rather than by increasing investment and organizing high-performance workplaces.

Unfortunately, the recently announced side agreements do nothing to address the question of suppressed wages in Mexico. They contain no labor standards and limit requirements that Mexico enforce its own laws to only three areas—minimum wage, health and safety, and child labor. Indeed, even the references to high wages and a fair distribution of income that were in the preamble of the original U.S. draft were stricken in the agreed-upon version.

The side agreements are also silent on questions of air pollution and wildlife protection. And they set up a bureaucratic maze that will make it all but impossible for redress of grievances even on those few topics it covers. The side agreements have already been mocked by the Mexican secretary of commerce, who recently assured Mexican legislators that "the time frame of the process makes it very improbable that the stage of sanctions could ever be reached."

We are told that defeating NAFTA will bring a crisis to Mexico. Henry Kissinger warns us darkly of President Carlos Salinas's "left-wing" opposition ready to "boil to the surface." But Mexico will be in a crisis anyway when the financial bubble promoted by foreign speculation bursts. It makes no sense for the administration to further load on to American workers—already facing slow job growth, continued erosion of incomes and the cost of paying for our own speculative excesses of the 1980s—the burden of saving Salinas and his corrupt party from the consequences of their own mistakes.

The next president of Mexico, whoever it is, will have to cooperate with the United States. In any case, the choice should be left to the Mexicans, not manipulated by a tired Washington foreign policy establishment with time on its hands now that the Cold War is over.

Congress should insist—as the European Community did before its economic integration with Spain, Portugal and Greece—that democracy in Mexico precede an agreement on a common North American market. Democracy, not side agreements that the Mexican ruling class has already shown it holds in contempt, is the only guarantee that freer trade will help the people on both sides of the border who work for a living. The first step down this more responsible path is to reject NAFTA.

[From the Orlando Sentinel Oct. 14, 1993]

THE U.S. STANDARD OF LIVING WILL DECLINE IF NAFTA IS APPROVED

(By Charley Reese)

Advocates of the North American Free Trade Agreement, unable to defend it on the basis of facts, are concentrating on attacking the critics as nativists, racists and whatever.

It's kind of a tough job because those opposed to NAFTA include such diverse people and groups as Sen. Howard Metzenbaum, Rep. David Bonior, the AFL-CIO, former California Gov. Jerry Brown, columnist Pat Buchanan, libertarian and Austrian school of economics proponent Murray N. Rothbard, consumerist Ralph Nader, businessman Ross Perot, Jesse Jackson and the Council of Mexican Bishops. That's among others.

Here are a few facts to keep in mind:

Mexican government figures show 61 percent of U.S. exports to Mexico are intermediate goods and 24 percent are capital goods. Intermediate goods are stuff that is to be assembled in Mexico and shipped back to the United States. Capital goods are factories and machines being sent down there to manufacture goods in Mexico. Thus, true exports from the United States to Mexico are only 15 percent of the figure cited by NAFTA propaganda. Even that figure is inflated because the Mexican peso is overvalued.

A report prepared by the U.S. Commerce Department during the Bush administration but never released to the public—so much for honesty—estimated the United States will lose 40 percent of our remaining jobs in autos, steel, textiles and apparel if NAFTA is ratified. Furthermore, between 1979 and 1991, America lost 2.6 million manufacturing jobs to Asia and Mexico. That's why the U.S. standard of living has gone down and will go down even further if NAFTA is ratified.

Apply some common sense. Ask a NAFTA supporter to explain to you why $1 billion invested in Mexico as opposed to being invested in California will create jobs in the United States. General Motors has announced it will eliminate 100,000 jobs in the United States. No surprise. General Motors is the largest employer in Mexico already. It has more than 50 plants there.

Apply some more common sense. After NAFTA shifts even more U.S. manufacturing plants to Mexico, why would a Mexican buy a product made in Detroit and shipped to him in Mexico when he can buy it in Mexico?

NAFTA will cost us 500,000 jobs and, except for a few lobbyists and Wall Street investors, it won't create anything in the United States but unemployment, higher welfare bills, lower government revenues and more crime.

The maquiladora program begun more than a decade ago was a test program for NAFTA. Under that program, the U.S. government encouraged multinationals to build plants on the Mexican side of the U.S. border. The deal is, production from them can come into the United States duty-free. That program has cost Americans about 500,000 jobs already, but here are the pertinent points:

Proponents of that deal, like proponents of NAFTA, said it would reduce illegal immigration. It did not. It increased illegal immigration by drawing people to border towns where they discovered that the jobs paid as little as 58 cents an hour. NAFTA will displace most of Mexico's agricultural workers. Guess where they will go to avoid starving.

Another fact to consider is that Mexico is run by a 50-year-old authoritarian regime, that it has a lousy human-rights record, that it has a 50-year history of corruption that make its laws and promises a bad joke. Mexican applications for political asylum have shot up recently; Mexican politicians routinely criticize any effort by the United States to control its borders. A Mexican big shot recently ridiculed the NAFTA side agreements in a speech to the Mexican legislature.

You should read the book The Myth of Free Trade by Dr. Ravi Batra, published by Charles Scribner's Sons. It's a wonderful summation of a terribly misguided policy that will reach a disastrous climax if NAFTA is ratified. Congress can kill NAFTA. If it doesn't, NAFTA will kill what's left of U.S. prosperity.

[From Business Week, Sept. 20, 1993]

SEEING THROUGH NAFTA'S NEW CLOTHES

(By Robert Kuttner)

To oppose the North American Free Trade Agreement (NAFTA) is to be labeled protectionist, jingoist, apologist for declining U.S.

industries, as well as callously indifferent to Mexico's poverty. I am none of these. Rather, my case against NAFTA is Keynesian.

Keynesian economics holds that total purchasing power (aggregate demand) needs to roughly balance the economy's capacity to produce; otherwise, supply exceeds demand and productive potential goes unfulfilled. To have a fiscal and monetary policy, not to mention a labor policy, you need a government. But North America is neither a country nor a government. The U.S., Canada, and Mexico have radically different laws, living standards, and notions of what is minimally decent. By pretending we are one country, we risk the country with the lowest wages and the fewest labor rights and environmental protections getting the jobs.

The good free-trader replies that by embracing open trade, we stimulate efficiency and thereby improve those very conditions. But the recent golden age of growth was the post-World War II boom—when trade was encumbered by relatively high tariffs and regulatory barriers that sheltered national economic-development strategies. There was growing global commerce, but it was far from free trade. The advanced nations all had wages that rose with productivity, completing the Keynesian virtuous circle. Japan and Korea, the growth leaders, were among the most highly protected. Mexico, with state-owned and heavily regulated industries, enjoyed annual growth rates in excess of 5%, despite or perhaps because of—economic nationalism.

FORCED CONVERSION

When Mexico abandoned its economic nationalism in the early 1980s, it was not because the policy had failed or because Mexican leaders had suddenly seen the light. It was because excessive foreign borrowing based on mistaken projections of oil prices—and crushingly high interest costs imposed by Paul A. Volcker's Federal Reserve Board—suddenly gave the U.S. leverage to demand that Mexico's leaders become converts to free-market policies.

In the 1980s, Mexico's real wages fell by over 30%. As interest rates have come down, Mexico has begun to recover, but real income is still well below its 1980 level. Against this history, NAFTA was devised as a reward for Mexico's forced conversion to the economic theories of the Reagan-Bush era. As repentant free-marketers, the Mexicans would enjoy preferential access to the U.S. market.

I offer this revisionist history not to commend protectionism but to suggest that the case for free trade is exaggerated. Extreme protectionism is surely bad. When every nation protects, as in the 1930s, the world economy contracts. But far more important than perfectly free trade is whether nations and the world system are pursuing high-growth, full-employment policies.

SHORT-LIVED BOOM

Defenders of NAFTA also claim that the gains of freer trade will be roughly symmetrical. As a poor, low-skill country, Mexico will attract low-skill country, Mexico will attract low-skill jobs, leaving better ones to materialize here. But as University of California at Berkeley researcher Harley Shaiken has shown, there is a huge divergence between Mexico's rising skills and lagging wages. It is precisely this disparity that makes relocation there so attractive. As skilled jobs in the auto and electronics industries move south, there is no pressure to raise Mexican wages because of its massive unemployment. And as long as Mexico's wages lag behind its productivity, the purchasing power necessary to import goods from the U.S. jobs—and hence to provide of setting U.S. jobs—will lag, too. The current boom in exports of U.S. capital goods to Mexico is likely to be short-lived as Mexico diversifies its suppliers.

Henry Ford's insight was Keynesian: It's smart to pay employees enough to enable them to buy the products they make. But Mexico's auto workers though nearly as productive as their U.S. counterparts, are paid under $2 an hour and cannot afford to buy the cars they build. As wages lag behind output, supply outstrips demand. And as Mexico becomes an adjunct of the U.S. economy, the low-wage drag on Mexico's prosperity becomes a drag on our own.

To date, there is one useful byproduct of the NAFTA debate. Last month, when the proposed side agreement on labor standards was shown to House Majority Leader and NAFTA critic Richard A. Gephardt (D-Mo.), he dismissed it as window dressing. After hastily consultations, Mexican President Carlos Salinas de Gortari offered a new concession: Mexican wages would begin rising in proportion to Mexican productivity. This unenforceable promise introduces a Keynesian test into the trade debate.

If we truly wish to improve living standards in Mexico, it is not smart to throw away our own. Rather, we might gradually liberalize U.S.-Mexico trade if Mexican wages and conditions rise with productivity. Please note that this Keynesian case against NAFTA is rather different from that of Ross Perot, who is no Keynesian. Presumably this strange bed-fellowship embarrasses Perot as much as it embarrasses me.

[From World Business, Sept. 24, 1992]

HEADING SOUTH—UNITED STATES COMPANIES PLAN MAJOR MOVES INTO MEXICO

(By George Anders)

Most U.S. companies see themselves as winners in a North American Free Trade Agreement—and 40% are inclined to move some manufacturing to Mexico in the next few years.

At the same time, more than one-third of U.S. companies think that a regional trade accord will be at least somewhat unfavorable for American workers. And the origins of any new jobs created in Mexico are likely to be contentious. Some jobs are likely to be ones that otherwise might have gone to Southeast Asia or other low-wage areas; others may represent a transfer of work from the U.S.

Those are some of the findings that emerge from a poll of 455 top U.S. executives, who were asked their opinions about steps being taken to cut tariffs and open up trading between the U.S., Mexico and Canada. The survey was conducted by Roper Organization for The Wall Street Journal. It encompasses companies in more than 20 industries, from electronics to tobacco.

Among the poll's conclusions:

Support for the North American trade pact is strongest among large companies. Apprehensions are higher for executives at small companies, particularly those who say they don't know much about the accord.

Telecommunications, banking and high technology are the U.S. Industries that are expected to benefit the most from the trade accord. No industry is rated as a victim by a majority of respondents, but more than a third of respondents think U.S. textile companies could suffer.

About one-quarter of U.S. executives say they are likely to make a capital investment in Canada in the next few years—significantly fewer than the percentage targeting Mexico.

The development of regional trading blocs is endorsed by a 2-to-1 margin, with executives saying they want a North American alliance that competes with similar groupings in Europe and Asia.

By a 3-to-2 margin, executives say they would support an even wider regional trade agreement that would cover all of Latin America.

In general, some 81% of executives said they are strongly or mostly in favor of the North American trade accord. Just 12% oppose the pact. The approval rating reached 86% from executives who say they knew at least a fair amount about the pact: some 64% of executives who say they knew little or nothing about the agreement are willing to endorse it.

Typical among the optimists is James F. McCann, president of Bridgestone/Firestone, Inc. "As we move more and more toward a common market for North America, that will generate more opportunities for business," Mr. McCann says. He's particularly bullish on Mexico, where his company already makes 1.5 million tires a year and might expand.

At Caterpillar Tractor Co., executives are similarly upbeat about Mexico. Last year, Caterpillar exported 1,200 units of earth-moving equipment to Mexico, for a total of more than $150 million in sales. The figure could rise further in the next few years, says Caterpillar trade specialist William Lane, once Mexico slashes or eliminates duties of 15% to 20% on imports from the U.S., thereby making U.S. goods even more competitive against Japanese imports.

Less sanguine, though, is Frederick Dint, chairman of Mayfair Mills Inc., in Arcadia, S.C. While Mr. Dint says he admires the principle of free trade, he adds that any agreement "has to be executed properly" before he can support it. And Mr. Dint observes that the U.S. textile industry already has been hardhit by competition from a wide range of low-wage countries, including Mexico.

Overall, Roper found, 71% of respondents feel the trade pact will be beneficial for their company. An additional 15% say they aren't sure what the impact would be, and just 14% say it could hurt their business.

Among companies with $1 billion or more in sales, some 95% endorse the trade pact. But at companies with fewer than 500 employees, only 70% of executives approve. And among companies in states that bordered on Mexico, one in five executives opposes the pact—one of the highest negative ratings.

In a sign of American eagerness to expand in Mexico, 40% of respondents say it's very likely or somewhat likely that they will shift some production to Mexico in the next few years. That share is even higher—55%—for executives at companies with $1 billion a year in sales.

Hoover Co., for example, plans to start making hand-held vacuum cleaners at a factory it operates in Ciudad Juarez, just across the border from El Paso, Texas. Hoover currently makes such products in Asia. But a recently completed internal analysis shows that it would be cheaper to switch production to Mexico, says Hoover President Brian Girdlestone.

Mr. Girdlestone acknowledges public concern about the loss of U.S. jobs, but he says that issue doesn't apply to Hoover's decision. "We're adding jobs in North America," he says. "We're bringing them back from Southeast Asia."

Firestone's Mr. McCann adds that it would be "shortsighted" to switch production to Mexico in an effort to capitalize on lower wage costs. Pay scales for skilled workers in the U.S. and Mexico already are closer than many people realize, he says. "And as Mexico gets more prosperous, wages are likely to rise," he says.

Still, some 39% of respondents say they think the trade pact would have a mostly unfavorable or very unfavorable impact on American workers.

About one-quarter of executives surveyed say they are very likely or somewhat likely to use the trade accord as a "bargaining chip" to try to hold down wages in the U.S. Another quarter say that such a tactic isn't too likely, and nearly half say it isn't likely at all.

While Mexico is the main area of focus, some executives signal increased interest in Canada as well. The U.S. and Canada significantly reduced trade barriers in 1988. The new North American trade pact aims to extend the terms of the 1988 accord and apply them throughout the continent.

Overall, 23% of executives say the 1988 agreement led them to increase exports to Canada. Some 9% say they invested more in Canada, and 7% say they faced increased competition from Canadian companies. But nearly two-thirds of the respondents say that the 1988 U.S.-Canada agreement hasn't affected their business.

Looking ahead, 27% of respondents say that they are very likely or somewhat likely to make a capital investment in Canada in the next few years. Several executives say the current recession in Canada has muted their interest in expanding there. Once Canada's economy picks up, they say, they are more likely to take advantage of any opportunities presented by liberalized trade.

Some critics of the North American trade accord have complained that it will encourage the development of regional trading blocs in Europe, North America and Asia, each pitted against the other. But some 56% of executives surveyed say that forming a North American regional bloc would be a good idea.

"The real, special value of [the trade pact] is that it makes the region more competitive vis-a-vis the rest of the world," says Nancie Johnson, head of trade policy or Du Pont Co. That might lead Du Pont to base a textile-fibers plant in Mexico, for example, she says, even though local Mexican demand alone couldn't support the facility. But if the plant could easily sell its output throughout North America, then it would be an attractive proposition.

Many companies, in fact, see the North American Free Trade Agreement as a first step toward a tariff-free common market that could cover all of the Western Hemisphere. Some 56% of all executives—and 70% of large-community executives—say they favor a trade accord that would include all of Latin America.

"If this is successful," says Sandra Masur, the chief Washington-based trade negotiator for Eastman Kodak Co., "what it accomplishes could potentially be applied to other markets like Brazil, which are chaotic now."

COST OF NAFTA

[From the New York Times, July 14, 1993]

A LOOK AT THE NORTH AMERICAN PACT'S ADDED COSTS

(By Keith Bradsher)

As the Clinton Administration and Congress grapple with the political problems of the North American Free Trade Agreement this summer, one issue keeps coming up: the potential cost of the pact to the Federal budget.

Estimates range up to $40 billion in lost tariff revenue, benefits for American workers who are unemployed as a result of new competition from Mexican factories, and bridges and highways to carry additional traffic.

Congressional pay-as-you-go budget rules require that such revenues be made up. This has produced an increasingly desperate search in Washington for ways other than Federal taxes to raise money. The Administration and Congress are looking for as much of this money as possible from state, local and private sources.

ONE OF SEVERAL ESTIMATES

In the Administration's first public discussion of some of the costs of the agreement, Commerce Secretary Ronald H. Brown said today that $15 billion to $20 billion would be needed over the next decade for roads, bridges, sewage-treatment centers, improved housing, electric-power plants and environmental cleanup projects along the Mexican border.

But he also said that the Administration expected business to provide most of that money, spurred by potential earnings from tolls and fees from the sewage and power facilities.

On Thursday and Friday, Mr. Brown said, Clinton Cabinet members will try to drum up commercial interest at a meeting in San Antonio with Mexican Cabinet ministers and with about 400 investment bankers, engineers and state officials.

The Secretary said that private companies had ignored the potential in border investments for many years and are now recognized it because of the proposed North American pact.

Others, though, questioned some of Mr. Brown's assumptions, including the idea that industry would step forward to provide services often supplied by the Government.

"If they're going to try to do this on the cheap, my vote counts and everyone else's vote counts show they come up short," said Charles Kamaski a vice president of the National Council of La Raza, a Hispanic advocacy group that supports the trade pact.

After several months of work, the Congressional Budget Office this week released a detailed analysis of the accord's prospective costs. It estimated a loss of $2 billion to $3 billion in tariff revenue over five years.

The pact would also result in extra spending on worker retraining, on agricultural programs and on transportation and environmental programs on the border, the budget office said. It provided few specific figures.

INTER-AMERICAN BANK'S OFFER

Another source of help is the Inter-American Development Bank, an institution like the World Bank, which seeks to help poor Western Hemisphere nations. It has quietly offered to create a $10 billion fund for project loans. The Federal Government would be required to contribute only $250 million of this, and the rest would be reissued through bond issues, an international financial official with a detailed knowledge of the plan said.

Representative Esteban Torres, Democrat of California, said today that he plans to introduce legislation this week to create a North American Development Bank. The bank would be set up with $1 billion in Federal money and would issue $5 billion in bonds to pay for transportation, environmental and community-development projects anywhere in North America, not just in border states.

Creation of that bank is the idea of Raul A. Hinojosa-Ojeda, an assistant professor of planning at the University of California at Los Angeles. Mr. Hinojosa-Ojeda has strong political ties in Washington and Mexico City, and this, combined with his connections with national Hispanic groups, have gained attention for his idea in the Administration and Congress.

Mr. Kamasaki said his group supported the new bank partly because its proposed charter would provide for extensive consultation with local businesses and residents.

DILUTING OPPOSITION

By making loans across the nation to communities struggling to cope with international competition, the bank could also lessen opposition to the trade agreement from members of Congress who feel that border states will be the main beneficiaries.

Representative Robert T. Matsui, a California Democrat who is organizing House support for the trade pact, said Congressional interest in the new bank was growing. But he said that a small tax on trade across the border might also be necessary.

Corporations bitterly oppose such a tax, arguing that it would undo part of the benefit of tariff reductions. Mr. Matsui said that a tax could be set as low as one-quarter of 1 percent.

Current United States tariffs on Mexican-produced goods average 4 percent, although a few items, like table glassware, face tariffs up to 30 percent.

FREE TRADE: THE COSTS

Lower tariff revenues: Estimated by the Congressional Budget Office at $2 billion to $3 billion over five years.

Retraining of workers who lose their jobs: Predicted by the Clinton Administration to exceed the $1.68 billion over five years that had been estimated by the Bush Administration.

Extra border bridges, highways and sewage treatment: Commerce Secretary Ronald H. Brown said today that it would cost $15 billion to $20 billion over the next decade.

Extra Customs Inspectors: Some in Congress want more staff members to prevent drug trafficking and other smuggling.

Extra Spending on Agricultural Programs: Price supports and export-finance programs would rise slightly, according to the Congressional Budget Office.

AND THE POTENTIAL REVENUE RESOURCES

International Border and Water Commission: This Mexican-American commission—whose limited authority along the border includes controlling the salinity of the Rio Grande, approving new bridges and maintaining boundary buoys—could issue bonds to pay for bridges.

North American Development Bank: A new institution, backed by taxpayer money from Canada, Mexico and the United States, would issue bonds to pay for projects anywhere in North America.

Inter-American Development Bank: An existing lending institution jointly controlled by Western Hemisphere governments. The bank's management has offered to create a $10 billion fund. Only $250 million in Federal money would be needed, and the rest could be borrowed using the bank's AAA credit rating.

Flat tax on cross-border trade in goods and services: Critics of the proposal by Senator Max S. Baucus and the House majority leader, Representative Richard A. Gephardt, say that it would merely replace tariffs with taxes.

[Press release from the Congressional Joint Economic Committee, Nov. 9, 1993]

JOINT ECONOMIC COMMITTEE STUDY WARNS OF $20 BILLION "NAFTA DEFICIT"—NEW ANALYSIS FINDS THAT LONG-TERM BUDGET COSTS OF FREE-TRADE AGREEMENT WILL LIKELY BE MUCH GREATER THAN PREDICTED

WASHINGTON, D.C.—Congressman Dave Obey (D–WI), Chairman of the Joint Economic Committee, released a new JEC staff study today that calculates the potential budget costs of the North American Free Trade Agreement (NAFTA). The study finds that the total amount of NAFTA-related costs that would have to be paid from the federal budget over the next decade could reach as high as $20.1 billion. Additionally, the direct costs of implementing NAFTA over the next five years could be 30 percent higher than the current estimates being used by the Administration.

The new JEC study examines two separate considerations of future NAFTA-related costs. The first is a calculation of the budget offsets that must be found in order to replace lost tariff revenues and other costs connected directly to the NAFTA implementing legislation. The second is a prediction of the total NAFTA-related costs over the next decade—including expenses that are not directly part of the implementing legislation such as further tariff losses, training and income support for dislocated workers, and environmental and infrastructure costs.

FIVE-YEAR DIFFERENCES

The Clinton Administration has estimated that the direct NAFTA implementation costs will be approximately $2.7 billion over a period of five years. But the JEC study finds that this figure is based on low tariff loss estimates and does not include the budget shortfall for the proposed U.S. contribution to the new North American Development Bank (NADBank). The Administration figure understates potential lost tariff revenues by as much as $700 million because it is not based on historical growth rates of Mexican imports to the U.S. The proposed NADBank would require U.S. contributions of $224 million over the next five years, but the current implementing legislation only includes $56 million of this total. Because the U.S. is already $819 million in arrears to international financial institutions, and that figure has more than doubled over the past fiscal year, it is difficult to see how this gap can be closed.

By combining the additional lost tariff revenues and the potential deficits in NADBank contributions, the JEC study finds that the total five-year costs connected directly to the NAFTA implementing legislation will be approximately 30 percent higher than the Administration estimate.

The JEC study also argues that the Administration allocation of $138 million, (28 million annually) for dislocated worker programs is extremely low, but this underestimate is not include in the JEC five-year calculations, because the additional costs of worker dislocation programs were not immediately required as part of the implementing legislation. By contrast, the Bush Administration originally proposed $335 million a year for NAFTA-related dislocated worker programs, more than twelve times what is now being suggested.

TEN-YEAR COST ESTIMATES

The ten-year cost estimates of the JEC study are based on three significant factors—further lost tariff revenues, additional dislocated worker program costs, and NAFTA related environmental and infrastructure expenses:

Total budget costs of NAFTA over the next decade

	Billion
Lost tariff revenues	$8.8
Dislocated worker assistance	3.9
Environmental and infrastructure gap	7.4
Total costs over 10 years:	20.1

The $8.8 billion tariff loss estimate from the JEC study is based on the rate of growth of Mexican imports over the past fifteen years projected over the next decade. Three factors drive the cost for an adequate dislocated worker program to $3.9 billion—the probability of greater job losses than expected, higher *per capita* program costs, and the cost of providing assistance to a higher percentage of affected workers than under current programs. The $7.4 billion in environmental and infrastructure costs represents a "financing gap" between available grants and loan funds and the likely costs for pollution control, border cleanup, and new roads and border crossings.

The JEC study cost predictions are conservative—estimates are made only for direct possible revenue losses or expenditures by the federal government. The total social and economic costs of NAFTA could be even higher if other factors are considered, especially the ripple effects on workers and communities indirectly affected by NAFTA and the potential downward pressure on U.S. wages.

"My purpose in releasing this analysis is not to persuade anyone on how they should vote on NAFTA. My purpose is to make sure that members of Congress have a full understanding of what we will have to pay out of the federal treasury should NAFTA be passed," Obey remarked. "No one should vote for NAFTA unless they are prepared to cough up the money necessary to make all the promises a reality," he added.

"Many economists who have endorsed NAFTA have done so with the expectation that Congress will take sufficient action to mitigate the short and long term impact of the agreement, but it's my judgement that many of the same members of Congress who will vote for NAFTA on the 17th are simply not prepared to vote to appropriate the funds that are necessary to meet NAFTA's true costs," Obey said.

THE ENVIRONMENT

[From the Washington Post, June 22, 1993]

CLOUD OVER TRADE PACT—TEXAS TOO; MEXICAN POLLUTION FUELS UNITED STATES CRITICISM

(By Tod Robberson)

A smoky gray cloud has formed on the horizon of this Rio Grande border community, and depending on which way the wind blows, it could cast a shadow over U.S.-Mexican relations at a crucial point in negotiations linked to the proposed North American Free-Trade Agreement.

The sulfury cloud comes from the smokestacks of two coal-fired electrical plants on the outskirts of Piedras Negras, and prevailing winds are carrying it straight across the border into Big Bend National Park, a wilderness area 100 miles to the northwest that is one of the most popular outdoor recreational sites in Texas.

The cloud and the smokestacks, which have virtually no anti-pollution devices and eventually could pump up to 230,000 tons of sulfur dioxide into Big Bend each year, are at the center of a controversy between Mexico and the United States over territorial rights to clean air. Sources at the U.S. Environmental Protection Agency said the problem threatens to bog down talks on an environmental side accord to the proposed free trade agreement, known as NAFTA.

President Clinton has said that without the environmental accord, as well as two other side agreements on labor issues and sudden cross-border trade surges, he will not submit NAFTA to a vote on Capitol Hill.

Critics of NAFTA have argued that Mexico-based companies already have a competitive advantage over their U.S. counterparts because of lax Mexican environmental standards, low wages and other factors that permit them to produce products much more cheaply. They have said NAFTA, which would eliminate tariffs and other trade barriers among the United States, Mexico and Canada, will encourage U.S. companies to relocate to Mexico, taking American jobs and capital with them.

Promoters of NAFTA say it will create the world's largest free-trade zone uniting more than 350 million consumers and eventually presenting dramatic opportunities for increased employment in all three countries. NAFTA promoters also point to the political capital that could accrue to the United States in Latin America with approval of the free-trade accord. In an interview earlier this year, Mexican President Carlos Salinas de Gortari called NAFTA a "historic window of opportunity" for the United States to improve the often uneven relations it has had with its neighbors to the south.

In many ways, the smokestacks at Piedras Negras are the NAFTA debate in miniature, pitting the economic goals of employment, free enterprise and increased cross-border commerce against concerns about unfair trade practices and the environment.

Environmental experts say air pollution at Big Bend would not pose a serious threat to the health of wildlife, vegetation or visitors. However, it would destroy the ambience that national parks are designed for: as a nature reserve where beautiful scenery and clean air can be enjoyed without the irritants normally associated with urban life—in this case sulfurous smoke.

If advisers to EPA Administrator Carol Browner get their way, at least one of the two border electrical stations will be closed or radically modified—at a cost of hundreds of millions of dollars—to meet U.S. environmental standards.

If Salinas gets his way, the power plants, known as Carbon I and Carbon II, will remain operative and unmodified. With much international fanfare, the Salinas administration announced in May that it would privatize Carbon II, half of which is still under construction, in an unprecedented move to open Mexico's government-owned power generators to free enterprise. Carbon I, a 1,200-megawatt station built in the mid-1980s, will remain under control of Mexico's national power utility, the Federal Electricity Commission.

If international financing can be arranged, the 1,400-megawatt Carbon II station will be sold to a private joint venture 49 percent owned by Mission Energy, a subsidiary of Southern California Edison, and 51 percent by Grupo Acerero del Norte, a big Mexican steel and mining corporation. Talks reportedly are underway to hook up Mexican border power plants to the U.S. power grid, enabling stations such as Carbon II to compete with U.S. utilities.

Nearly 10 percent of the electricity produced by Carbon II will go directly to steel mills owned by Grupo Acerero. The U.S. Department of Commerce placed sanctions

against those same steel mills in January for dumping cheap steel products on the U.S. market.

The two power plants sit atop their own fuel source—a large vein of medium-sulfur, high-ash coal—that crosses under the Rio Grande and abuts the neighboring border community of Eagle Pass, Tex. If both power plants stay open, coal-mining operations here and in Eagle Pass could provide an important source of employment for decades to come. If the plants close, this already depressed region probably will sink further into poverty.

Despite the plant's potential economic infusion, specialists at EPA are warning of serious hazards posed by Carbon I and II, neither of which were built with stack scrubbers or other anti-pollution devices to control emissions of sulfur dioxide, nitrous oxide or ash, according to EPA documents obtained under the Freedom of Information Act.

Thomas Reed, Mission Energy's project director for Carbon II, said in a telephone interview that his company is not willing to spend the estimated $200 million to $300 million necessary to retrofit the plant with scrubbers and other anti-pollution devices. "Those plants were built to meet Mexican standards, and they meet those standards," he said.

Social Development Secretary Luis Donaldo Colosio, whose ministry oversees environmental protection, said in an interview last March that his country imposes standards that meet or exceed those of the United States. EPA officials, however, described Mexico's standards for coal-burning power plants as equivalent to what the United States imposed in 1970. U.S. standards have since been dramatically tightened.

Carbon II "does not meet EPA new source standards, and it will not do it without installing scrubbers," Reed acknowledged. A typical scrubber injects a watery spray containing a basic substance, such as lime that combines with the acids of sulfur dioxide to form a heavy compound. This compound, which is solid as opposed to the sulfur dioxide gas, is more easily collected before it leaves the smokestack.

Reed added that Carbon II's prospective new owners are under no obligation to meet U.S. standards—or even to supply EPA with data about the plant's design and emissions rates—because the plant is not located in U.S. territory. Aside from the standards set by the Mexican government, Reed said, the plant also must meet specifications set by the World Bank, which is considering financing the plant's privatization.

Nevertheless, Reed said his company's analysis indicates that "there will be no impact" on the environment.

But in a June 4 memorandum to EPA Administrator Browner, two assistant administrators and a regional administrator strongly disagreed with Reed's assessment.

"Despite Mission's assurances, EPA and National Park Service staff remain concerned that existing and planned units may significantly impact U.S. national park areas," administrators Alan Hecht, Michael Shapiro and Joe D. Winkle said in the memo. "Neither the existing facility nor the new units could be permitted anywhere in the U.S. because of their failure to meet EPA new source performance standards, let alone the best available control requirements mandated by the Clean Air Act."

The memo added, "Moreover, at this point we have no information indicating the facility would be barred by the Mexican government from burning even dirtier, higher sulfur coal" than what is being extracted from the Piedras Negras area.

Browner, a supporter of NAFTA who has praised Mexico's environmental cleanup efforts, has taken no position regarding Carbon II, EPA staff members said.

In other EPA internal memos, advisers to Browner appeared divided on whether to make a high-profile issue about Carbon II's problems or to be low-key for fear of impeding the progress of talks on the NAFTA environmental side accord. Asked whether the Clinton administration is concerned about repercussions that the Carbon II controversy could pose for NAFTA, and EPA staff member replied, "Absolutely, there's no question about it."

In hopes of making a more precise evaluation of Carbon II's environmental impact, EPA regional officer A. Stanley Meiburg sent a letter April 21 to Rene Altamirano, Secretary Colosio's environmental director, requesting various technical details about the power plant's design and test results on its emissions rates.

EPA staff members said that so far Altamirano and other Mexican officials have not acted on the request for reasons they could not explain. Altamirano was unavailable for comment in Mexico City.

An EPA source said it appeared that the Mexican government was withholding environmental impact data for fear it could negatively influence Mission's and Grupo Acerero's pending applications for international financing. Potential financiers include the International Finance Corp., the private arm of the World Bank; Barclays bank; Citibank, and two Mexican banks.

Susana Romero, spokeswoman for the International Finance Corp., declined to comment specifically on the Carbon II loan application but said environmental concerns always weigh heavily in World Bank loan considerations. Another World Bank source confirmed that the lack of scrubbers on Carbon II's smokestacks poses a serious impediment to financing. "No scrubber at all does not meet World Bank guidelines," the source said.

The source said the World Bank also is concerned that Carbon I and II could be closed as a result of the NAFTA environmental negotiations, which would mean that the plant's financiers could lose everything.

Reed said his company is prepared to pull out of the project altogether if the financiers or the Mexican government requires the plant to be retrofitted with scrubbers. "The economics of retrofitting are just not there," he said. Even if Mission withdraws from the privatization effort, he added, "the plant is going to run—regardless of who owns it. This is just a question of ownership."

One option, Reed explained, was a provision in the sales contract permitting the private owners to pass on the cost of retrofitting to the plant's customers. Under Mexican law, however, Carbon II would have only one customer—the government-owned electricity utility. Carbon II's owners plan to give nearly 10 percent of the electricity they produce to Grupo Acerero's steel mills under a "private service" contract unregulated by the government. Under current arrangements, Grupo Acerero would retain its source of cheap energy for steel production while the Mexican public would bear the cost of retrofitting the plant.

Meanwhile, pollution from Carbon I and II is having a negative ripple effect across the border in Texas. An EPA staff member said the federal and state governments impose "incremental" air-quality standards that must be met by all U.S. companies in Texas. Those standards are set by region, and when a region exceeds its pollution limit—regardless of whether the pollution comes from Mexico or Texas—Texas-based companies are required to reduce their own emissions to bring pollution levels down.

In the June 4 memo to EPA Administrator Browner, her senior advisers warned that Carbon I and II are already using up Texas' pollution increments. As a result, the state may have to cut back on new permits for industries and utilities hoping to open in southern Texas, while existing factories may have to reduce production to compensate for pollution produced by Mexico. "Thus, this source as presently configured can preclude industrial growth in the U.S.," the memo stated.

"This is unfair competition," said an executive with a major Texas utility. "What happens if they decide to export this electricity? There's no way we could compete."

The executive added, "We had hoped that with privatization, these environmental problems would be taken care of. But I guess now it will just be private companies invading our airspace."

[From the U.S. News & World Report, May 6, 1991]

POISONING THE BORDER

(By Michael Satchell)

With its manicured lawns and high tech ambience, the FINSA industrial park in Matamoros, across the Mexican border from Brownsville, Texas, gleams with ultramodern, American-owned manufacturing and assembly plants that turn out a variety of consumer and industrial products. Eager to cut costs, U.S. companies from Fortune 500 giants to small entrepreneurs began relocating to northern Mexico 25 years ago under a program called maquiladora—from an ancient custom of trading raw for finish goods. They have transformed once somnolent border towns like Matamoros into sprawling urban centers that annually attract thousands of job-hungry workers.

Close to 2,000 plants employing about half a million people are now strung along the 2,000 miles of border from Matamoros in the East to Tijuana in the West. Here, the industrial dynamism of the First World and the poverty of the Third dovetail in what is widely viewed as a mutually beneficial arrangement. U.S. companies enjoy cheap labor and generous tax breaks from both nations; Mexican workers get steady jobs and the chance to improve their lives. The program last year pumped $3.5 billion in foreign exchange into the Mexican economy—second only to the $9 billion from oil exports. Says Alfred Rich, president of the Western Maquila Trade Association: "This is a program in which everyone benefits."

But that portrait is incomplete. The border region is paying a growing environmental price for allowing the Mexican-based firms to operate beyond the restraints of the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration. Some companies admit they have moved south to avoid expensive U.S. environmental requirements. The result: They are creating more pollution there than they would in the United States. And while Mexico enacted tough new cleanup laws in 1988, scant resources have been made available to enforce them.

As the Bush administration presses forward with plans for a free-trade pact with Mexico, critics in Congress and organized

labor cite present environmental and social conditions as a reason to block the treaty. They point to a report last June by the American Medical Association, which described the region as "a virtual cesspool and breeding ground for infectious disease." The AMA concluded: "Uncontrolled air and water pollution is rapidly deteriorating and seriously affecting the health and future economic vitality on both sides of the border." Treaty opponents argue that conditions will worsen if the border is fully opened. And these growing concerns about pollution have prompted several federal agencies to consider whether U.S. Trade Representative Carla Hills should order an environmental impact statement, which could delay the pact for years.

Advocates of a free-trade agreement argue that economic development, while inevitably creating some pollution, frequently spurs prospering nations to significantly improve their environmental enforcement and to enact more stringent workplace rules. In addition, President Carlos Salinas de Gortari is more determined than any predecessor to clean up pollution, suggesting a brighter future for workers and the environment. But a U.S. News survey of current conditions reveals:

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

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

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

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

The maquiladoras—or maquilas, as they are commonly known—have sustained explosive growth of 15 to 20 percent over the past five years. As a result, tens of thousands of workers are now packed into shantytown colonias, living in hovels built form cinder blocks, tin sheets, scrap lumber, plastic, and cardboard without electricity, sewers or potable water.

Some of these conditions might be endurable if the prospect of upward economic mobility weren't so distant for most of the workers. Wages start at 82,000 pesos—$27—for a 49-hour week. The average weekly salary is about $47 in a border economy where food and other necessities often are as expensive as in the United States. The case of Yolanda Carrillo, who lives and works in the FINSA park, is typical. The 16-year-old began working at the MagneTek lighting plant at the age of 14 and earns the peso equivalent of about $46 a week wiring electrical coils. Home is a wooden shack with a dirt floor, cardboard covering the window holes and wind whistling through cracks in the walls. A colonia canal flows nearby, its milky water badly polluted by industrial wastes. "Even the goats won't drink it," says the young woman.

LITTLE MONEY

She shares the tumble-down structure with her blind, bedridden father, an older sister who also works in a maquila, four other female relatives and three sickly infants. There is no electricity, and water must be carried in plastic buckets from a standpipe three blocks away. Meals are cooked on an open fire or on a small propane burner. Despite two maquila salaries, Yolanda and her family live at little better than subsistence level. "The money," she shrugs, "isn't enough to make a change."

Questions about worker exploitation in a nation where unemployment is endemic draw ready rejoinders from maquila officials. "We're in a foreign country and it's a big mistake to impose U.S. values," says John Riley, vice president of Vertek, a Tijuana-based electronics company. Adds trade association chief Alfred Rich: "Are these people better off with me or without me? The small wage gives then the ability to enjoy a decent lifestyle. The may not be living in the lap of luxury, but they aren't starving."

Some, though, are getting sick. Interviews with dozens of employees in border communities turned up complaints of headaches, vision and respiratory problems and skin diseases caused by soldering fumes, solvents and other chemicals—particularly in the electronics-assembly industry. Some plants supply protective gloves, but few women wear them because they hamper dexterity and prevent the workers from maintaining the fast-paced production schedules. "They take advantage of us because women are more docile," says Reynosa worker Apolonia Resendiz, 39. "The men complain, so they don't get hired."

Catalina Denman, a professor at El Colegio de Sonora in Hermosillo, has studied health conditions among maquila women in Nogales since 1985. Among other problems, she finds that workers in the American-owned plants are three times as likely to give birth to infants of low weight as are other local women; half of these underweight babies are born prematurely. "We suspect toxics," Denman says. "We need to study just what the long-term effects are from being exposed to all these chemicals and fumes.

THE MALLORY CHILDREN

Dr. Isabel de la O Alonso knows all too well. Over the past eight years, she has pieced together evidence strongly suggesting an environmental tragedy that has gone largely unnoticed. In 1982, while operating the Matamoros school for special education, she began seeing retarded children with unusual physical characteristics that fell outside well-documented conditions such as Down's syndrome. The children, with degrees of retardation ranging from mild to profound, had broad noses, bushy eyebrows, thin lips, webbed and deformed hands and feet and other distinctive birth defects. A clinical history of their families revealed a single common thread: Each of their mothers worked during her pregnancy at a now defunct electrical components maquila then called Mallory Capacitors.

Dr. de la O has located 25 living Mallory children, has documented another half dozen who died shortly after birth and suspects there are several others. The mothers all told her their jobs involved washing capacitors—small devices that hold electrical charges—in a chemical mixture they knew only as *electrolito*. As they worked with the liquid it would cover their hands and arms and splash onto their faces.

Now in charge of special education for the state of Tamaulipas, Dr. de la O suspects that the women were exposed to polychlorinated biphenyls, or PBCs, widely used in the electrical components industry before they were banned by the United States in 1979. Today, the Mallory children have passed the age of puberty, and the insidious genetic defects continue. Most of the girls have not begun menstruation, and many of the boys have undescended testicles.

In the absence of tort laws or strictly enforced EPA- and OSHA-style regulations, U.S. companies in Mexico are under little more than a moral obligation to protect either their workers or the environment. Some corporations—Union Carbide for example—are lauded by activists for treating workers and the environment well. Others can't claim the same honors. And maquila owners say attempts to operate their plants up to EPA standards are sometimes stymied by the slovenly practices of workers. "There's a lot of ignorance on the shop floor and old habits die hard," says David Flowers, head of Pulse Engineering in Tijuana.

SEDUE is the acronym for the Mexican federal agency charged with enforcing the nation's environmental laws. René Altamirano, its director of pollution prevention, vows: "The border will never become a pollution haven for the United States." But despite the best of intentions, Altamirano concedes, his agency is under severe handicaps. SEDUE has multiple responsibilities nationwide, including housing and parks, but its entire annual budget is just $10 million. While the United States will spend $24.40 per capita this year on environmental protection, Mexico can afford to spend only 48 cents—a major increase from the 8 cents it spent in 1989. Altamirano's financially strapped agency, for example, has only two inspectors in each of the six border states to investigate and ferret out environmental scofflaws.

This inadequate supervision invites problems. Under a binational agreement, maquilas are required to ship their hazardous wastes back to the United States for disposal and to notify the EPA. But transportation and EPA-approved disposal of a single 55-gallon drum of hazardous waste can cost anything from $150 to $1,000. As a result, most maquila wastes are stockpiled, buried, dumped, flushed, burned or "donated" to charities for "recycling"—an environmental charade permissible under a loophole in Mexican law. In 1989, reports the EPA's Kathleen Shimmin, the agency received just 12 notifications of hazardous-waste shipments being returned to the United States across the California and Arizona borders. Last year, the total rose to 85. "That's a small drop in the bucket," Shimmin says. "Besides jawboning, we have no legal means to force these companies to comply."

Those who monitor the maquila industry believe that big corporations, with their modern plants and their keen eye on public image, are more likely than small factories to voluntarily follow EPA and SEDUE standards. Yet controversy has even tainted some of America's giants. General Motors, for example, operates 34 border plants employing 41,500 people. Spokesman John Mueller says the auto maker has factories in 35 nations and "complies with local environmental standards and cultural norms." At the FINSA industrial park in Matamoros, some 1,200 workers at GM's $80 million RIMIR plant manufacture 6,000 automobile bumpers daily. RIMIR officials say their hazardous wastes are recycled locally or repatriated to the United States, and the plant appears to be a model of industrial efficiency and environmental rectitude. "We play by the EPA and SEDUE rules, we have to keep our nose clean and we are the environmental leader of

the other maquilas," says Chuck Almquist, RIMIR's managing director.

BATTLE OVER NUMBERS

Now, however, there is a dispute over the company's practices. Environmentalists claim their tests of discharges from the RIMIR plant showed much higher readings than GM's own tests. Last year, the Boston-based National Toxics Campaign Fund collected some 100 separate samples from discharge pipes at 22 U.S. plants in Mexico. Chemist Marco Kaltofen says NTCF's federally approved laboratory found that the RIMIR sample contained xylenes—common solvents that can cause lung, liver, kidney and brain damage—in a concentration of 2,800 parts per million (ppm). Kaltofen also says he measured discharges of ethyl benzene at 430 ppm, acetone at 56 ppm, methylene chloride at 41 ppm and toluene at 5.7 ppm. The EPA's cumulative permissible limit for all toxic organic chemicals discharged from industrial plants like RIMIR is 2.13 ppm, and some state standards are even lower. SEDUE's standards closely parallel the EPA's.

RIMIR officials say they are mystified by the high readings and are anxious to correct any deficiencies. Their routine tests conducted by an independent laboratory at roughly the same time as Kaltofen's last year showed xylene discharges of 0.56 ppm. Their tests for the other chemicals all showed reading of less than 1 ppm.

Pollution problems are evident elsewhere along the border. NTCF's tests at other plants found concentrations of hazardous materials in some samples that were too high to measure accurately. Water samples at 16 of the 22 sites, says the NTCF, violated Mexican and U.S. water-quality standards; some in Matamoros contained pH levels so severe they would cause acidic or caustic burns to skin.

Beyond the discharges, other practices by some U.S. firms also degrade the environment. Adjacent to the Reynosa industrial park that is home to several major corporations is a massive open dump that contains acre after acre of industrial detritus—plastic, metal, rubber, resins, paint sludge. Foul-smelling slime leaks from drums marked "Zenith Plant No. 12." Zenith Electronics Corp. spokesman John Taylor acknowledges that the company, which employs as many as 10,000 workers at its Reynosa facility, dumps its bathroom, kitchen, office and nonhazardous industrial trash here but says toxic wastes are returned to the United States. "This [site] is a SEDUE-licensed disposal facility and anything we do is in accordance with the law," Taylor says, "We are a good corporate citizen in Mexico." Both SEDUE and Reynosa municipal officials, however, say they have not authorized the area to be used as a dump.

The public-health threat from the kinds of solid wastes found at the Reynosa dump is generally confined to the local area. But polluted industrial effluent and untreated sewage from the exploding populations of the cities and colonias are migrating into the United States and creating serious waterborne health problems north of the border. In Tijuana, toxic effluent from the industrial park at Otay Mesa mixes with 12 million gallons of raw sewage discharged daily into the Tijuana River. The river then flows north before emptying into the Pacific Ocean at Imperial Beach, Calif., south of San Diego. Some 2.4 miles of shoreline are quarantined, and local officials estimate the closed beach and the area's befouled reputation cost more than $100 million a year in lost tourism and recreation opportunities.

California officials describe the New River, some 120 miles east of San Diego, as the filthiest waterway in the State—if not the entire United States. It flows north out of Mexicali, a booming maquila city, and into the Salton Sea, a large lake southeast of Palm Springs. Tests show the New River contains some 100 different industrial chemicals and 15 viruses capable of causing outbreaks of polio, dysentery, cholera, typhoid, meningitis and hepatitis.

Continuing east, the pattern is repeated. Up to 30 million gallons of untreated sewage flow out of Nogales each day and into Arizona's Santa Cruz River. An underground plume of carcinogenic solvents—including trichlorethylene—along with chromium, lead, manganese, cadmium, arsenic and mercury has badly polluted an aquifer that provides drinking water for thousands of colonia residents. The plume has migrated 10 miles beneath the border, forcing the closing of at least 12 wells on the U.S. side. In Texas, more than 100 million gallons of raw sewage laced with solvents, heavy metals and pesticides empty each day into the Rio Grande from Ciudad Juárez, Nuevo Laredo, Reynosa and other cities. Tissues of fish caught in the river show high levels of copper, selenium and mercury, and untreated human wastes turn the Rio Grande—literally—into the nation's biggest open sewer.

"This is a public-health disaster waiting to happen," says Dr. Reynaldo Godines, president of the Tri-County Medical Society in Laredo, Texas. The incidence of hepatitis between Brownsville and El Paso, he points out, is already six times the national average. In the El Paso colonia of San Elizario, 35 percent of children 8 years and under are infected with hepatitis A, and 85 to 90 percent of adults contract the disease by the age of 35. At the University of Texas Health Science Center at Houston, epidemiological studies by Dr. Irina Cech reveal significantly elevated liver and gall bladder cancer mortality rates in the 33 counties along the Rio Grande that get their drinking water from the river Dr. Cech suspects a combination of factors is responsible, including poor living conditions, high levels of fecal pollution in the water and toxic chemicals from the maquilas.

HEADING SOUTH

One fear of free-trade opponents—industries fleeing south to avoid U.S. environmental laws and the skyrocketing costs of waste disposal—has already been validated. Between 40 and 50 furniture manufacturers, unable to meet Southern California's air quality standards, have relocated in Mexico. Joseph Haring, director of the Pasadena Research Institute, monitors the trend and says furniture-industry employment in Southern California has shrunk from 85,000 workers in 1987 to 55,000 today. Over the next five years, he predicts, half of the region's 125,000 metal-finishing jobs will be lost to Mexico. "These industries can operate down there with fewer precautions and in fact, create pollution," Haring says, "Almost to a man, that's what happens." Analysts say other industries that generate large amounts of toxic garbage—metal plating, chemicals, plastics, fiberglass and electronics—are also migrating south.

What are the prospects for change? Observers like Roberto Sánchez of El Colegio de la Frontera Norte believe the Mexican government, eager to foster industrialization, will never lean hard on the plants unless forced to by massive environmental tragedy. There is some possibility, though, that the Bush administration will promise a more serious and comprehensive crackdown on polluters. Trade Representative Hills will unveil a proposal this week, designed to win the backing of Democrats for her trade talks with Mexico, that is expected to seek stronger bilateral enforcement of pollution standards and suggest that U.S. assistance might be available for environmental programs in Mexico.

The Bush administration is also being pressured by critics like the Coalition for Justice in the Maquiladoras—an umbrella lobbying group—to find ways to improve wages and conditions for the Mexican workers. And American companies are coming under increasing fire from liberal lobbying groups. For industry and the Bush administration, the challenge from opponents is clear. Find ways to clean up the *maquiladora* mess, or the prospects for a free-trade agreement will get worse.

[From the Toronto Star Newspapers, Ltd., Mar. 13, 1993]

MEXICO BEHIND THE MASK SERIES POLITICS POLLUTION INDUSTRY

(By Linda Diebel)

A bogus election in Tamaulipas state last November shows what happens to Mexicans who oppose the all-powerful governing party of President Carlos Salinas de Gortari.

There can be no doubt that it was bogus. Not necessarily for the reasons the opposition claims—that ballot boxes were stuffed, that voting lists were skewed, that the dead rose from their graves to vote for the governing party-but for the simple, irrefutable fact that most of the ballots were never counted.

Nobody disputes it; they went up in flames.

There was a riot, burning ballots were scattered all over the streets, and yet official winners were duly announced within a few days as if nothing had happened. They were all from Salinas's ruling Institutional Revolutionary Party, known by its Spanish acronym of PRI.

Federal authorities conveniently blamed the riot on the government's opponents and brought the full force of the law upon their hands. Charges were laid against 30 opposition members. And that was that.

Democracy in Mexico. Another round.

For the losers—candidates, organizers and grass-roots workers from the poor colonias (settlements)—the price was high. They've been arrested, allegedly beaten, thrown in jail and charged with everything from terrorism, arson and property damage to inciting mob violence and, in the case of a radio station owner and one of his journalists, obstructing the reporting of news.

Tamaulipas arcs along the Gulf of Mexico and the border with Texas. Mexico is virtually a one-party state in which the PRI has held power for more than 60 years.

In Tamaulipas, the story of opposition to its grip grew essentially from two things: disgust with the corruption among one-time PRI politicians like Jorge Cardenas Vasquez and worsening living conditions in the colonias, particularly in industrial border cities like Matamoros, across the Rio Grande from Brownsville, Texas.

There are reasons that political anger boiled up in Matamoros.

It's a maquiladora city, one of a string of Mexican border towns that offers cheap labor and lax environmental and working standards to an estimated 2,000 factories, mostly American, Canadian and Asian, in a largely tax-free zone.

Under the North American Free Trade Agreement (NAFTA), the maquiladora boom is expected to accelerate.

But it's a tinder box. Matamoros is a futuristic nightmare. Pollution is so bad it hurts

to breathe. In the colonias, an estimated 500,000 people (some say a million now) live in a town designed for 40,000 at the most. Everything is covered with a dull, sick-brown mud—especially the children. They play near open sewers; they scavenge in garbage; they have open sores on their bodies, and big bellies bloated from malnutrition.

This is a big industrial town—supposedly the pride of the maquiladora industry—yet it has forgotten about its children. They get sick. Here, and on the Texas side of the border, for example, 64 babies have been born in the last three years with anencephaly, in which the brain stem fails to develop. Last year, one woman gave birth to an anencephalic baby that died shortly after birth; she became pregnant again, and that baby, too, was affected.

The cause is still unknown, although Brownsville environmentalist Domingo Gonzalez suspects airborne contaminants from the factories.

Matamoros is also home to the "Mallory Kids," the 54 children who were born during the 1980s with severe mental retardation, blindness and lack of muscle co-ordination. It was traced to the powerful solvents and pregnant women worked with at the Mallory radio parts plant. It has since been closed.

"We get very angry," says veteran political activist Juan Gutierrez Vasquez. "Mexico is such a rich country. Theoretically, we have everything we need. But we also have the PRI. And so you look around here in Matamoros and you see that the Mexican people have nothing at all."

Two years ago in Matamoros, a grass-roots movement began in opposition to Quimica Fluor, the chemical plant that produces highly corrosive hydrofluoric acid used in refrigeration and for refining gasoline. It can burn through skin and lead to a series of fatal diseases.

The Salinas government wants to expropriate more land around the plant—a so-called Intermediate Safeguard Zone—while residents say the plant should move.

The struggle has brought people together and led to a coalition of the left and right, the rich and poor.

For last year's state and local elections, two parties—the Party of the Democratic Revolution (PRD) on the left and the National Action Party (PAN) on the right—formed a joint coalition to fight the PRI.

Today, some of the opposition are out of prison on conditional bail and several prominent activists are seeking political asylum in the United States. Jorge Cardenas Gonzalez, the 67-year-old, right-wing, millionaire industrialist who "lost" the governor's race to the PRI, has been hounded out of politics.

"He's very depressed," says his son, Cardenas Gutierrez, who's seeking asylum in Texas. "My father has been in politics all his life. He is a fighter. But this time they would have taken away everything. They made him declare that he would retire from politics."

All face charges:

Ana Maria Guillen, from the colonias, soft-spoken, middle-aged woman whose political anger grew out of seeing her child and others have to walk a footbridge over raw sewage to get to school.

Gutierrez Vasquez, who says his ribs were broken after he was beaten by prison authorities following his arrest.

Cardenas Gutierrez, the wealthy, dapper radio station owner and son of the defeated gubernatorial candidate, who faces a possible 120 years in jail.

Rolando Martinez Calderoni, the defeated Matamoros mayoral candidate from the rightist PAN party, a successful architect and sole owner of an industrial group, who fled to the U.S. to escape jail with what he described as proof of electoral fraud and who is also seeking asylum.

Francisco Garcia, a radio journalist whose crime was to question the official election results in his commentaries on Cardenas Gutierrez's XEEW station in the days following the vote. He fled to Texas to escape jail. "You are guilty if the government says you are guilty," says Garcia. "I was telling the truth. That is all."

Three days after the election in Tamaulipas, on Nov. 11, returns were being counted in Matamoros. The problem was that electoral officials invited a handful of PRI and PRI-affiliated parties into the state electoral offices while the ballots were being counted. Representatives of both the PAN and the PRD were locked out and riot police were called in to enforce the blockade, with tear gas, truncheons and dogs.

People began to riot outside. Firebombs were thrown, the building went up in flames, ballot boxes were hurled into the street and people were left roughed up and bleeding.

Cardenas Gutierrez has hours of videotape of these events. A few critical points, quite clear in the tapes, would appear to prove that the government's charges were a fabrication:

Only three or four men—always the same ones—threw the firebombs that ignited the electoral offices. These men were unidentified and were not arrested. Yet opposition members ended up being charged with arson and the destruction of public property.

Cardenas Gutierrez, an organizer and scrutineer for his father's campaign, was trying to get into the electoral offices the day of the riot. The video shows him pushing forward in the melee and being pushed back by a man in camouflage. That appears to be the extent of his involvement.

Juan Gutierrez Vasquez was on the sidelines, or absent, for most of the rioting. But when the firetrucks finally arrived—two hours after the riots began—he is clearly seen trying to move the crowd aside to let the firetrucks pass. He is the only one doing so. Yet he is charged with arson. Unidentified men are seen trying to stop the trucks.

Guillen is charged with terrorism, destruction of property and inciting mob violence. In the very first moments of the riots, she was struck in the head and was bleeding. She reeled back dazed, and in subsequent frames, is seen holding her head and staggering. Her participation appears to have been quite limited.

"The government wants us to be afraid so that we will not participate any more," said Gutierrez Vasquez. "That would be their victory. They would have won. But we are not going to let that happen this time, no matter how difficult. We are going to keep working."

He had time to think in jail. He developed a plan for a new movement, Mexico Despierta (Mexico Awaken) to educate the population about how to vote in advance of next year's national elections.

"We Mexicans have been quiet for a long time," says Cardenas Gutierrez. "No more.

"We have been dealing with governments like this for a long time. And during that time, nobody cared. It makes me just crazy. You see what they do, what they get away with, and you just don't believe it.

"They have exploited our children, our natural resources and the futures of my sons, grandsons and great-grandsons. In 30 or 40 years, we are going to have nothing. If nothing changes, I see a very bad future. Well, I don't want that to happen."

In some ways, elections here in Tamaulipas weren't even the most violent. Last July, the PRI won in the state of Michoacan, west of Mexico City, despite allegations of widespread fraud.

According to several reports, among them the U.S.-based human rights group Americas Watch, four PRD members were gunned down in an ambush in the aftermath of the election, and five more were killed in the months that followed.

In a related case, Americas Watch reported: "On Sept. 23, 1992, Michoacan-based researcher and election observer Morelos Marx Madrigal Lachino was kidnapped in Mexico City by two armed men wearing caps like those often used by police. The kidnapping occurred while he was heading for the airport to fly to Ecuador to attend a religious conference. Madrigal was held incommunicado, beaten and interrogated for three days about his ties to the PRD and the nonpartisan Convergence of Civil Organizations for Democracy, which had co-ordinated independent election monitoring in Michoacan. He was then dumped, blindfolded, on a Mexico City street."

On Jan. 19, the Montreal-based Human Rights Social Justice Committee reported:

"The municipal elections in Michoacan this year were marked by severe violence and recurrent violations of the most basic human rights. Some of the atrocities which occurred during the months of December, 1992, and January, 1993, include the following:

The beating of Sergio Figueros Martinez in La Piedad by unknown people, which led to his death on Dec. 2, 1992.

The assassination of Noe Alejo Morano by eight members of the judicial state police on Dec. 24, 1992, in the community of Hurio, municipality of Parecho.

The assassination of Miguel Nipita Hernandez on Dec. 25 by a member of the municipal police in Charpan.

The assassination of Francisco Ayila Reyes on December 16, 1992, at 9 a.m., while on his way to work at the La Florida hacienda in Jungapeo."

Altogether, there were 47 people, all associated with the opposition, were killed.

Escalating political violence is the reason so many people are trying to flee to Canada. Ottawa lawyer and human rights activist Patti Strong testified about human rights abuses before the external affairs committee studying the NAFTA last month.

She tabled statistics from the Immigration and Refugees Board showing that, in the first nine months of 1992, 220 Mexican citizens applied for refugee status, a sharp increase over earlier years. Of those who applied, 192 succeeded in establishing a credible basis for their claims during initial hearings. Of the 79 claims for which decisions had been given by Sept. 30, 35 Mexicans were granted refugee status under the Geneva Conventions.

"We raise serious questions about the fact that the Canadian government is entering into a free trade agreement with a country which has become one of the major refugee-producing nations in this hemisphere," Strong told the committee.'

"On the subject of human rights, NAFTA is completely silent."

In Matamoros, environmentalist Gonzalez estimates it would take a minimum of $28 billion just to put in the water plants and proper sewage treatment to serve this community.

In the Colonia Popular, an open sewer runs across from the school. In the Colonia Chorizo, near the Quimica Fluor plant, people worry about poisoning. Fred Millar, director of Toxic Project for the Washington-based Friends of the Earth, has repeatedly warned of the potential for a disaster on the scale of Bhopal, India, where a poisonous gas leak killed at least 2,500 people.

There is the Finsa Industrial Park, where U.S. government testing in 1990 showed discharges of the solvent xylene, which causes brain damage, registering at 6,300 times U.S. drinking water standards.

And Chemical Row, where fumes from insecticides and herbicides hang in the air and make breathing difficult. Xylene in a drainage ditch here was measured at 53,000 times acceptable levels.

A recent study by the Centre for Frontier Projects and the Promotion of Human Rights at nearby Reynosa found that 80 per cent of all maquiladora workers are between the ages of 16 and 25. Most are female.

"Generally because of their age, they don't have labor experience and that does not give them a clear idea of their rights," said the report.

And, contrary to claims from the Canadian and Mexican governments and Canadian business groups, that the maquiladoras and the NAFTA are bringing such good times to Mexican workers, their lives aren't getting better. They're getting worse.

Between 1982 and 1991, for example, the real wages of Mexican workers, including maquiladora workers, have gone down by 65 per cent.

Maria Gabriella Violante Garcia, 19 and working since she was 15, looks wonderful in her houndstooth-check jacket and perfect makeup as she arrives for the afternoon shift at AT&T in Matamoros.

But, like most other workers, she goes home to a shack, without a toilet, without running water; there are five people in a room, all of them dependent on her for support.

Once, she dreamed of becoming a trial lawyer. She's had two jobs in just over a year. Companies like to transfer workers, without warning, just as they start to build seniority.

She makes roughly $13 a day ($1.62 an hour), part of it in scrip—the kind of money that companies used to dole out last century to cut costs and ensure that workers had nowhere to buy but the company store.

"She talks like an adult," Gonzalez says. "she has the responsibilities of an adult.

"But she is only a child. They are all children."

Maquiladora workers can organize. They organized under Agapito Gonzalez Cavazos, the legendary 77-year-old leader of the Union of Day Laborers and Industrial Workers, which represents 34,000 in Matamoros. His union is an offshot of the CTM, the main Mexican union that is controlled by the PRI.

"Because of Gonzalez's aggressive tactics, Matamoros had by 1991 become the most unionized town in the border zone," andrew Reding, a senior fellow for hemispheric affairs at new York's World Policy Institute recently told a U.S. congressional hearing on the NAFTA.

A couple of days after the union went on strike in January, 1992, "Gonzalez was arrested by federal police on an unrelated charge of income tax evasion. Though he was eventually released, the arrest served the intended purpose of curtailing the strike," Reding said.

"It was all a political show," he said in an interview. "I didn't play by the rules and that's how it works here."

In his office in the Edificio Cardenas Galvan, Gonzalez says he remains defiant. "If they pick me up again, I will go again. I am not afraid of anyone. I will go out fighting."

But the eight months of arrest last year and legal wrangling have taken their toll. His family had to work a complicated deal to get him released, and his son, union lawyer Agapito Gonzalez Benvavides, is still working out the details. The case takes their time away from union business.

On a flight out of Mexico, a Salvadoran industrialist who owns a lead foundry in Monterrey, an industrial city in the neighboring state of Nuevo Leon, explained that he is thrilled with his workers, particularly the women.

Sometimes, he said, the temperature reaches 120 degrees (Fahrenheit) but they just keep on working. They'd never do that in the States, he said.

And then, with pride, he added: "I sell sweat."

[From the New York Times, May 24, 1993]

FREE-TRADE TREATY MAY WIDEN TRAFFIC IN DRUGS, U.S. SAYS

(By Tim Weiner with Tim Golden)

WASHINGTON, May 23—Cocaine smugglers working with Colombian drug cartels are starting to set up factories, warehouses and trucking companies in Mexico to exploit the flood of cross-border commerce expected under the North American Free Trade Agreement, United States intelligence and law-enforcement officials say.

The Mexican smugglers are buying and setting up the companies "as fronts for drug trafficking," said a report written by an intelligence officer at the United States Embassy in Mexico City. The phenomenon was confirmed by a senior United States official who oversees enforcement of anti-drug laws and who spoke on condition that he not be named.

The cocaine traffickers "intend to maximize their legitimate business enterprises within the auspices of the new U.S.-Mexico free trade agreement," the report said. The report was released under the Freedom of Information Act to the National Security Archive, a private research group in Washington that seeks to declassify Government documents.

TAKING ADVANTAGE OF ADVANTAGE

The document said traffickers planned to invest in trucking and warehousing businesses in Mexico as conduits for drug shipments. They have also started to buy manufacturing and assembly plants known as maquiladoras as fronts for drug shipments, the senior United States official said.

Under a program established in 1965, the maquiladoras have special tariff exemptions, and the goods they produce move in and out of the United States with minimal inspection.

"A lot of intelligence demonstrates the drug traffickers' ties to maquiladoras," the United States official said. "They are investing in these plants for shipments to the United States ."

United States investigators said that they first noted the phenomenon 16 months ago and that the problem was growing; Mexican officials, who first heard of it six weeks ago from their United States counterparts, said they knew of only a few such cases.

The intelligence report, intended mainly as a warning, did not specify how widespread the problem was or which companies the smugglers were investing in. Law enforcement officials on both sides of the border said they did not know the scope of the threat.

"The free-trade agreement makes the United States more accessible and convenient for traffickers," said a United States official involved in fighting drug traffickers. "It gives these people better opportunities to smuggle drugs."

The trade agreement, which was signed in December by President Bush, President Carlos Salinas de Gortari and Prime Minister Brian Mulroney, awaits approval by Congress and by the legislatures of Mexico and Canada. Over the next 15 years, it would gradually eliminate tariffs on goods traded among the three nations and eventually allow Mexican truckers to drive their rigs anywhere in the United States and Canada.

A trade expert and two former United States trade negotiators said that while United States and Mexican officials had foreseen the possibility that drug traffickers would take advantage of the trade pact, the problem was not raised during the negotiations. In fact, the pact does not address law enforcement issues related to trade.

WHY IT WASN'T TALKED ABOUT

"This was in the 'too hot to handle' category," said Gary Hufbauer, a senior fellow at the Institute for International Economics and co-author of a favorable book about the trade pact. "It's a painfully obvious problem. The huge increases in traffic will provide a huge cover for drug traffickers."

The challenges facing customs inspectors are already daunting. Mexican smugglers working with the Medellin and Cali drug cartels in Colombia already ship 50 percent to 70 percent of the cocaine consumed in the United States, hauling roughly 200 tons a year over the border and pocketing billions of dollars in profit.

The maquiladoras have grown over the past decade into Mexico's most important source of foreign exchange after oil. More than 2,100 maquiladoras employ half a million workers to make components or finished products from materials that are allowed into Mexico duty-free. The products, from furniture and television sets to auto parts, are shipped back by truck or train, with duty payments only on the value added in Mexico.

A senior Mexican law enforcement official, speaking on condition that he not be named, said the United States officials' warning could "definitely" be well founded.

He said officials were investigating a report of a cocaine shipment hidden in electronics components, although he had not confirmed that any specific maquiladora was being used to smuggle drugs.

Since Mexico deregulated its trucking industry in 1989, each maquiladora has been allowed to operate its own truck fleet and set up its own trucking company. That alone might make them attractive to smugglers.

"The issue of the maquilas is a new one," the Mexican official said. "There is no hard evidence, but these guys are not stupid, and the path is very clear."

A senior Mexican customs official who, following the policy of the Finance Secretariat, also spoke on the condition that he not be named, said maquiladora commerce was being treated deferentially on both sides of the border. He said that the United States Customs Service has the right to inspect the plants and their shipments, but that in practice such checks were rare.

"I think the controls will, naturally, get looser" under the free-trade pact, the Mexican customs official said. "Control will be reduced."

Thus free-trade pact is likely to complicate life for customs supervisors like Bill Lackey in El Paso.

At Mr. Lackey's post of Friday, a line of tractor-trailers spewing diesel fumes stretched for a quarter of a mile across the Bridge of the Americas into Ciudad Juárez, Mexico, waiting for inspections by the two officials on duty.

About 1,700 trucks cross the bridge over the Rio Grande each day, almost all from maquiladoras making textiles and electronic components. Inspections last as little as five minutes.

CONFLICTING GOALS AT BORDER

"We understand they have to get in and get out," Mr. Lackey said. "That is their living. We respect each other. The people coming across understand our problems and adapt to that."

Customs officials are torn between the goals of stopping contraband and supporting commerce. Today "most trucks that go through customs go through almost unimpeded," said Mike Lane, the deputy customs commissioner at EL Paso.

But he said 300 new inspectors and new surveillance gear at the 22 customs posts between the Pacific and the Gulf of Mexico would help ferret out the smugglers.

Others familiar with the cocaine trade express doubts.

"The passage of NAFTA will clearly put additional strain on customs at the borders," said Assistant United States Attorney Glenn MacTaggart, who prosecuted members of the so-called Juárez cartel, one of the Mexican syndicates cited in the intelligence report.

THE 21-TON CACHE

The Juárez cartel imported the biggest cocaine cache ever seized in the United States, a 21-tone supply found in 1989 in a warehouse near Los Angeles.

"If NAFTA provides opportunity for legitimate businesses, it may clearly provide opportunities for illegitimate businessmen," Mr. MacTaggart said. "It's almost common sense."

Under the trade agreement, the export of Mexican products in Mexican trucks would vastly expand. Today, a tractor-trailer truck owned by a Mexican company cannot travel beyond a narrow commercial zone near the border, and trailers are transferred there to American haulers. If the pact is approved, a Mexican trucker will be able to travel to any point in California, Arizona, New Mexico and Texas by 1997, and answer in the United States and Canada by 2001.

American law-enforcement officials said they believed the cocaine belonged to a businessman who owns one of the biggest trucking companies in Mexico.

[From the Houston Chronicle, May 30, 1993]

DRUG ADDICTION IN LATIN AMERICA RUNS RAMPANT; CARTELS ABANDON TRADITIONAL STRONGHOLDS, CHANGE THEIR TACTICS

(By Carl Honore)

BUENOS AIRES, ARGENTINA.—In Latin America, drug addiction is no longer just a "gringo" problem.

From Mexico to Argentina, cocaine, heroin and other illegal drugs are making deep inroads in countries that once seemed immune.

Recent reports by the Organization of American States and the United Nations have warned that demand for drugs has outstripped every forecast.

Last month, a Gallup survey taken in Argentina put that change in context. Since 1985, the number of Argentine drug users describing cocaine as their preferred narcotic has jumped from 7 percent to 31 percent. And the proportion of 18–24 year olds who know an addict has doubled to 45 percent.

Elsewhere in Latin America, reports from Roman Catholic church groups, universities and local governments point in the same direction.

In neighboring Chile, cocaine rehabilitation centers have begun posting waiting lists. In Brazil, crack addition has reached "alarming proportions" among street children, according to a United Nations report.

In Colombia, 11 percent of working-class boys in Bogota have been hooked on cigarettes spiked with a cocaine paste known as basuko. In Peru, the local basuko market has doubled since 1988. In Venezuela, basuko use has trebled since 1989.

One study has uncovered cocaine use among 15 percent of the men in Colon, Panama. Up the coast, in Costa Rica, hospital emergency rooms are facing 10 times as many cocaine-related cases as in 1990.

And Mexico was stunned when Roman Catholic Cardinal Juan Jesus Posadas Ocampo, his driver and six other were killed during a drug-war shoot-out in the parking lot of Guadalajara's airport.

U.S. officials said Posadas, who was in a Grand Marquis, a big car commonly used by cocaine lords, likely was mistaken for a trafficker and shot dead in the confusion of the gunbattle. The Mexican government offered an unprecedented reward of $5 million for the capture of his killers.

Counselors and treatment specialists at the Youth Hope Foundation, a drug clinic tucked away on a side street in the northern suburbs of Buenos Aires, talk about the trend.

"Like everywhere else in the region, Argentina is living a cocaine boom," says Luis Poncino, a former addict who now works as a counselor at the clinic. "Coke is now public enemy No. 1."

Two years ago, the clinic dealt mostly with people suffering from alcoholism or pharmaceutical dependency. Today, the clinic's enrollment is up tenfold, mainly due to cocaine addiction.

"Reliable, overall statistics are hard to come by, but you don't need numbers to know that addiction is moving into the mainstream," says Dr. Alberto Calabrese, founder of Argentina's first drug rehabilitation clinic. "It's now a social problem that touches every class and every age group, even down to 11 year olds."

The new cocaine culture comes as no surprise. Social upheaval has created an avid market at a time when drug traffickers need new customers.

The dynamics of the drug trade have changed. Not only has demand in the United States diminished since hitting its peak in the mid-1980s, but the Bush administration's campaign to destroy Latin America drug crops and intercept drug shipments has taken a toll.

To escape attacks on their crops and laboratories, drug cartels are abandoning traditional strongholds in Peru, Colombia and Bolivia and setting up shop in neighboring countries. At the same time, tighter policing has forced suppliers to take long detours to the United States, often through countries that until recently had only read about drug addiction in the newspaper.

In Managua, Nicaragua, for instance, there were 55 deaths from drug overdose in 1992. A few years ago, there were none. Even small islands in the Caribbean are starting to report a rapid rise in drug traffic and cocaine addiction.

"One way or another, the drug machine has penetrated nearly every country in the region," says Hugo Migues, a psychologist here who has compiled narcotics surveys in several Latin American countries. "And the side effect is always the same: More people get involved and more of the product leaks out locally."

Much of that leakage is deliberate. Now that smuggling cocaine into the United States can cost twice as much as producing it in South America, drug barons are scrambling to defend their profit margins.

One way to raise cash fast is to sell some of the drug along the twisting supply routes to the United States. Paying carriers with cocaine instead of cash is another way to cut costs. It also creates a small army of local dealers.

The upshot is a massive injection of cheap cocaine. In Panama City, one gram costs $3, and a nugget of crack sells for 50 cents.

Although surveys say Buenos Aires is the ninth most expensive city in the world, cocaine costs about 80 percent less here than in the United States, authorities report.

"The drug cartels have created a local market through sale pricing," says Dr. Calabrese. "Cocaine is now a luxury good without the luxury price."

Socioeconomic unrest guarantees a stream of eager customers.

In many Latin American countries, economic reform has cost thousands of jobs and widened the gap between rich and poor.

Foreign investment is streaming in and economies are growing, but there is little trickling down to average people. As in 1980s America, the economic winners and losers are both turning to drugs, especially cocaine.

"Cocaine is now seen as a credit card, or a passport to prestige and social acceptance," says Dr. Calabrese. "To the rich it's a reward; to the poor, it's a way of escaping despair and sharing in the spirit of success." That was how 35-year-old laborer Idelio Gauto saw it. Losing his job in the late 1980s was the first step on the slippery slope to addiction. Living hand to mouth on the streets of Buenos Aires, he turned to alcohol, marijuana and amphetamines. When the price of cocaine fell in 1988, he pounced on the drug.

After an evening of group therapy at the Youth Hope Foundation, Gauto lights a cigarette and explains the appeal.

"Everybody wants to do cocaine because it's glamorous and you feel it gives you status," he says. "For years it was only grown for the Yankees but now it's cheap enough that nearly anyone can get it, especially if they're willing to do a little trafficking on the side."

Across the continent, the numbers and testimony of people like Gauto, together with the sharp rise in drug-related violence, are waking governments from their slumber.

Tougher laws have been passed, the addiction debate is moving into the public arena and new money is earmarked for prevention, treatment and crime-fighting. Even so, much more is needed, experts say. In a recent report, the United Nations tempered its praise with warnings that the tide shows little sign of turning.

"Until we flush the cartels out of the jungle and give our peoples jobs and hope, we'll never solve the drug problem," says Calabrese. "At this rate, Latin America is on course for a worse crisis than exists in the United States."

[From the Dallas Morning News, May 29, 1993]

SALINAS URGES DRUG POLICY REVIEW AFTER PRELATE SLAIN

The brazen killing of Guadalajara's Cardinal Juan Jesus Posadas Ocampo points to

the need for an urgent international review of strategies for fighting drug trafficking, Mexican President Carlos Salinas de Gortari said Friday.

Prosecutors in Guadalajara, meanwhile, said the gunmen responsible for the cardinal's murder may have escaped to Tijuana by boarding a commercial airliner minutes after the killing Monday. The Aeromexico flight, delayed on the runway by an airport official, was boarded by eight "nervous" men, including two without boarding passes, the prosecutors said.

Crew members identified one of the men as Javier Arellano Felix, who is one of four drug lords sought in connection with Cardinal Posadas' murder. The Mexican government has offered a $5 million reward for information leading to the capture of the four men.

Mr. Salinas told The Dallas Morning News that Cardinal Posadas was a personal friend who had worked with him on amending Mexico's constitution to give the Roman Catholic Church a freer role in Mexican society.

He said Mexican drug gangs make huge profits that enable them to buy the best arms and equipment, while leaving police vulnerable to corruption.

"We are outraged by what has happened. We are outraged at the presence of these drug bands in Mexico," Mr. Salinas told The Dallas Morning News. "The cost to Mexico to fight these bands in increasing in direct proportion to the profits they are making elsewhere."

"We must review very carefully how we fight narcotics trafficking, internationally," Mr. Salinas said. "We already are preparing a presentation for the United Nations for a review of strategies for fighting drug trafficking."

Friday's report by federal and Jalisco state prosecutors said the crew of Aeromexico Flight 110 said the eight men boarded the Tijuana-bound plane after the airport operations chief ordered the flight to delay its takeoff because of an emergency outside the airport.

The report did not say how the men were allowed aboard the plane or whether airport workers were under suspicion.

The Associated Press, citing the report, said a man arrested the day of the shooting, Jesus Alberto Vallardo Robles, admitted being part of the hit team. He said the gunmen were attempting to kill Joaquin "El Chapo" Guzman Loera, another Mexican drug lord, at the airport.

The prosecutors' report said Mr. Vallardo missed the escape flight in the confusion.

Mr. Vallardo, who had been drinking and was on drugs, said he worked for Arellano Felix and his brother, according to the report. It said he led police to a safe house where they discovered weapons, an armored pickup truck, and documents about Mr. Guzman and his activities.

The report said investigators discovered that the two federal judicial policemen based at the Guadalajara airport had failed to fire their weapons during the shootout.

It denied reports that any federal agents had been arrested in the case.

[From the Boston Globe, May 31, 1993]

CARDINAL'S DEATH STIRS OUTCRY AGAINST MEXICO DRUG CARTELS

(By Jordana Hart)

Five major drug cartels have operated in Mexico since the early 1980s with relatively little international attention, leaving a trail of kidnappings, torture and executions, most of which have gone unsolved and unpunished.

In this deeply Roman Catholic nation, the slaying of Cardinal Juan Jesus Posadas Ocampo, reportedly in a shootout here between warring drug traffickers a week ago today, has brought fear of narco-terrorism to a new height.

The death forced an unprecedented outcry against perceived inaction—and corruption—on the part of local officials and the federal government.

Three more people were arrested in the search for drug lords blamed for the killing, according to the Associated Press.

Two Mexican-Americans were arrested in the border city of Tijuana early Saturday in connection with the killings, the federal Attorney General's Office said in a weekend statement.

Juan Enrique Bazones Hernandez, 18, and Roman Torres Mendez, 23, were identified as gunman who participated in the May 24 shootout that killed Cardinal Posadas. The two worked for the rivals of drug lord Joaquin "El Chapo" Guzman, who police say was the intended target of the gunmen.

The arrests bring to four the number of people in custody. The fourth suspect, Jesus Alberto Vallardos, allegedly confessed that Guzman's rivals had given him $10,000 to hire 15 men to kill Guzman.

Basic questions remain unanswered. It is unknown at this point whether Cardinal Posadas, the populist archbishop of Guadalajara, was deliberately killed.

The cardinal and six others were shot to death in the parking lot of the city's airport after he arrived with his driver to pick up a papal envoy.

In several interviews last week, many in this city of 4 million people 280 miles northwest of Mexico City said the government's response has been, and continues to be, tragically inadequate.

Narco-terrorism "has become every day news for us and it does not seem to stop. The narcos have more money, more guns and more power than anyone else," said Maria Guadalupe Gonzalez Padilla, skimming the headlines of the daily El Sol newspaper at her corner kiosk. "Either the government cannot or will not stop them."

The church hierarchy, opposition leaders, the media and ordinary citizens are complaining louder than ever that Mexico's increasingly powerful drug cartels have an iron grip on some local government and security officials, leaving the defenses against cartel violence threadbare.

This month and last, two former public prosecutors from Sinaloa and Yucatan states, a local lawyer, a business leader and a number of others reportedly were executed gangland-style, with no arrests.

"Narco-traffic has penetrated so deeply here that those who are dedicated to it have not only been able to buy property, but also many consciences," a former legislator, Adalberto Rosas Lopez, said in an interview with the Mexican newsmagazine Proceso.

The drug war here is causing what many were calling the "Colombianization" of Mexico and, in particular, Guadalajara, a tourist mecca and the country's second-largest city after Mexico City.

As one tourist agent put it, this country of 85 million people and its major centers of commerce are becoming an offshoot of "Colombia and her mafia," referring to the powerful Medellin and Cali drug cartels.

The death of the country's second-most powerful Catholic prelate, and the general violence of narco-terrorism, add a jarring note to this 445-year-old Spanish colonial city of plazas and gardens. This haven of cultured, graceful civility draws visitors from everywhere, particularly the United States.

Mourners interviewed after Cardinal Posadas' funeral last Thursday voiced cynicism about promises by local officials to increase police surveillance around the city and create a new anti-narcotics agency.

Calls for the death penalty last week were seen largely as a smokescreen for governmental inaction.

The governor and chief prosecutor of the state of Jalisco, of which Guadalajara is the capital, flip-flopped on explanations about how and why the cardinal was killed.

They first said that Cardinal Posadas and the six other casualties were caught in a cross-fire of warring drug traffickers.

Then, when the medical examiner found evidence that the cardinal was shot from only 3 feet away, taking 14 bullets to the chest, officials said Cardinal Posadas was mistaken for a drug kingpin who was the intended victim that afternoon. The cardinal was 66 years old; the drug kingpin is 42.

The cardinal was wearing black clerical garb with a white priest's collar, but Leobardo Larios, the Jalisco chief prosecutor, had said "several drug traffickers are also accustomed to using suits of black clothing."

"I want to continue believing that the death of the cardinal was accidental, but it is difficult when the coroner says they killed him from one meter away, that it was not cross-fire," said Luis Reynoso, a bishop of Cuernavaca and an official of the Mexican Episcopal Conference.

The murder "sets a new height in narco-terrorism and human rights violations, and begins a new chapter in the life of the church in Latin America," said Roberto Gonzalez, the Boston auxiliary bishop who represented Cardinal Bernard F. Law at the funeral.

In interviews, many Guadalajarans blamed outsiders, particularly Colombians, for importing the destructive trade. But recent media reports and government information point to a homegrown version.

The five cartels, named after their home states—Juarez, Tijuana, Sinaloa, Jalisco (of which Guadalajara is the capital) and the Gulf—have distribution and transportation routes that crisscross the country. But they all eventually head north to the United States.

According to news reports, certain banks in Guadalajara, Hermosillo and other cities are involved in the laundering of drug money and a number of elected officials, judges and others have been charged with drug trade-linked corruption.

Guadalajara's recent drug battles stem from the rivalry between Sinaloa's vicious drug capos—Hector Salazar (El Guerro) Palma and Joaquin (El Chapo) Guzman—and the Tijuana cartel headed by the Arellano Felix brothers, nephews of the imprisoned Miguel Angel Felix Gallardo. He is considered by many to be the Mexican drug kingpin.

Last November, the Jalisco cartel sought vengeance after the Tijuana cartel stole a load of its cocaine. It massacred six people in a busy nightclub in nearby Puerto Vallarta, a tourist hotspot on the Pacific Ocean, as the cartel members tried to kill each other.

The kidnapping and torture-murder of US Drug Enforcement Administration agent Enrique Camarena in 1985 was one of the Guadalajara traffickers' most infamous acts.

Last December, the brother-in-law of a former Mexican president was convicted in Los Angeles of conspiring to kill Camarena. Others have also been convicted.

For its part, the Mexican government said it sought help from the United States in locating cartel leaders. It offered an unprecedented $5 million reward for the capture of those it holds responsible for the death of Cardinal Posadas and the six other victims.

Officials said they made numerous arrests of low-level traffickers in Tijuana late last week in connection with the gun battle.

The week before Cardinal Posadas was killed, the Pentagon released a formerly classified report stating that Mexican drug cartels, particularly those based in the border cities of Tijuana and Juarez, were preparing to buy land and build factories along the border.

The cartels were gearing up to take advantage of a more loosely guarded border under the North American Free Trade Agreement, the report says.

[From the Washington Post, May 31, 1993]

MEXICAN DRUG DEALERS CUT PERVASIVE PATH; NATION IS TOP NARCOTICS SUPPLIER TO U.S.

(By Tod Robberson)

International drug dealers, whose world of violence touched the Catholic Church last Monday with the killing of a cardinal, have within the past year turned Mexico into the number-one staging ground for multibillion-dollar trafficking operations aimed at the United States, regional drug experts say.

Using bribery, violence, threats and tremendous economic influence, Mexico's top drug cartels and their Colombian allies are penetrating this country's government and judiciary at almost every level, these experts say.

Diplomats and other observers say drug-related incidents such as last Monday's shooting death of Cardinal Juan Jesus Posadas Ocampo in the city of Guadalajara underscore the degree of lawlessness that exists in Mexico as well as the vulnerability of some of the country's institutions to exploitation by narcotics traffickers.

Mexican and U.S. drug enforcement officials say their antidrug efforts have been dwarfed by the resources available to narcotics cartels here and in Colombia, which have at their disposal tens of billions of dollars, huge weapons arsenals, sophisticated communications gear, a virtual air force of planes and executive jets and a web of connections in the Mexican government that enables them to operate with virtual impunity.

One example of the brazen attitude often exhibited by Mexican traffickers was the broad-daylight escape plan executed by gunmen immediately after Monday's drug-gang shootout a the Guadalajara airport in which Posadas was shot 14 times. The Mexican Justice Ministry said unidentified officials ordered a Tijuana-bound Aeromexico passenger jet delayed for 20 minutes during the shootout, enabling eight of the gunmen involved to board the jet and escape. At least two of the men were allowed on the plane without boarding passes, the ministry said Friday.

Even after it became apparent to investigators on the ground that some of the gunmen had escaped by airplane, Mexican officials apparently made no attempt to halt the Aeromexico jet or meet it upon arrival in Tijuana two hours later. To many Mexican observers, the failure by federal police to pursue the gunmen represented either gross incompetence or possible collusion.

The administration of President Carlos Salinas de Gortari is offering a $5 million reward for information leading to the capture of five reputed gang leaders allegedly involved in Posadas's killing, two of whom are identified as relatives of Mexico's top drug trafficker, Miguel Angel Felix Gallardo. Although Felix Gallardo is in jail awaiting sentencing for complicity in the 1985 torture-killing of U.S. drug enforcement agent Enrique "kiki" Camarena, law enforcement officials say they believe he is still in control of Mexico's biggest trafficking organization, known as the Guadalajara Cartel.

The killing of Posadas, coming on the heels of three other gangland-style shootouts elsewhere in the country in the past seven months, has prompted a debate among Mexican politicians about the "Colombianization" of Mexico—that is, the potential for drug cartels to immerse Mexico in the kind of violent anarchy that Colombia has experienced since the mid-1980s.

U.S. drug enforcement officials warn that, although some headway has been made in the war against trafficking here, the problems of drug-related violence, money-laundering and corruption remain at nightmarish proportions.

A U.S. State Department report released in April, as well as research by independent experts, provide some chilling statistics about the enormous scale of drug production and smuggling in Mexico:

The U.S. government estimates that 50 to 70 percent of all cocaine smuggled into the United States passed through Mexico. In 1988, according to drug-trafficking experts Peter Reuter and David Ronfeldt, the money earned by Mexican cocaine traffickers equaled as much as 20 percent of this country's total export income.

Although producers in Colombia, Bolivia and Peru have various routes to move cocaine northward via a complex distribution network, Mexico remains the easiest and most reliable doorway for smuggling into the United States, U.S. and Mexican law enforcement officials say.

The cartels operate an elaborate distribution network that exploits various points along the 2,000-mile U.S.-Mexico border, as well as the southern U.S. coast. Mexican officials have said the networks appear to aim mainly at the border area of Southern California and Arizona and employ as drug couriers the millions of illegal aliens who cross into the United States each year. Larger shipments come across the border in hidden compartments of vehicles, or even in their tires.

Mexico is the number-one source country for the opium gum that is refined into the heroin used in the United States, producing four to five tons of the drug annually since 1988. A Mexican law enforcement official said government seizures of heroin and raw opium are averaging only a half-ton per year—meaning that an estimated four tons still is reaching the open market.

Mexico also remains the number-one grower country of all marijuana entering the United States, with the plant cultivated throughout the country by peasant farmers as a highly profitable cash crop.

Mexicans play a crucial role in supplying the precursor chemicals used by South American producers of refined cocaine and heroin. "Most precursor and essential chemicals for heroin production are purchased in Mexico," the State Department report said. "Chemicals destined for cocaine laboratories in South America transit Mexican ports, but usually without passing Mexican Customs."

A Mexican law enforcement official described the production and trafficking operations of Mexico's biggest cartels as similar to those of a well-organized multinational corporation, but with the added advantage of low overhead and a high profit margin shared among relatively few stockholders.

To make such operations work smoothly, the official said, the cartels must maintain close ties with authorities throughout the Mexican government, judiciary and law enforcement branches.

Another senior law enforcement official identified the Mexican judiciary as highly susceptible to corruption and one of the main reasons drug traffickers behave with virtual impunity. "First of all, it is almost impossible to prove that judges are corrupt. They have ways of interpreting the law so traffickers can go free, and no one will ever know that a judge was paid off," the official explained. "Second, even if we know that a judge is corrupt, [federal police] are powerless to go after him. The judges are almost untouchable."

The State Department report was equally critical of the Mexican law enforcement system in this regard, noting that "despite efforts by President Salinas to eliminate official corruption, it is a deep-rooted and persistent threat to his antidrug program."

Another area in which the U.S. government has been highly critical of Mexico concerns "laundering," or the investment and spending of drug money so that its source is disguised. "Mexico is an increasingly important money laundering center, particularly for cash transactions by [currency-exchange houses] along the U.S. border," the State Department report said. "Mexican laws do not require banks to keep stringent records on large currency transactions or identify customers making them. There are no controls on the amount of money that can be brought into or transferred out of the country."

The U.S. government has pressed the Salinas administration to crack down on money laundering through more stringent legislation, but so far the Mexican government "has not moved in that direction," the report said.

"The Mexicans are the worst," said a U.S. drug enforcement agent. "They're moving so much drug money through Mexico that we need the [proposed North American Free-Trade Agreement] just to repatriate the funds they're taking out through drug sales."

A Mexican law enforcement official concurred, saying Mexico's major cartels are able to invest their drug profits with ease in all kinds of "clean" businesses, including restaurants, resort hotels and condominium projects. He added that the Mexican resort city of Cancun is among the most popular investment sites for cartel money laundering operations.

"It is one of our biggest problems," the official said. "Under Mexican law, profits from drug sales are not illegal. We are allowed to confiscate only property that is directly involved in an illegal activity, like a truck that is used to transport drugs. But if someone buys a house or car or hotel with drug profits, we cannot touch it."

And even some of the property that the government has confiscated has become subject to dispute. According to legal experts, some traffickers are taking advantage of a loophole in Mexican law that forbids the government to transfer title or permit third parties to use any property seized in a criminal action as long as the case is under court review.

Using this loophole, the traffickers have taken aim at a widely celebrated social welfare program designed by Salinas to reward poor peasant farmers with land confiscated by the government in drug raids. Claiming

their constitutional rights were violated in the land seizures, the traffickers repeatedly have filed appeals that could tie the cases up in court for years. Ultimately, they may obtain court-sanctioned protection by federal police to kick the peasant farmers off the land, according to lawyers, Mexican law enforcement officials and members of Salinas's party.

Bribe-taking among police, judges and government officials also is hindering the administration's ability to combat drug traffickers. In the past 17 months, hundreds of Justice Ministry officials and federal judicial police have been discharged or are facing prosecution for alleged collusion with narcotics traffickers.

But with financial resources extending far beyond those of the government, traffickers are believed to have little difficulty finding willing accomplices inside the government, even at the highest levels of law enforcement.

For example, the Justice Ministry announced Friday that it had jailed a regional commander of the Federal Judicial Police, charging him with providing logistical support and protection for one of the nation's biggest opium and marijuana trafficking organizations.

[From the Washington Post, Aug. 15, 1993]

WILL NAFTA FREE THE DRUG TRADE? COCAINE BUSINESSMEN TOO WILL EXPLOIT OPEN BORDERS

(By William von Raab, F. Andy Messing Jr.)

The North American Free-Trade Agreement is now openly referred to as the "North American Drug Trade Agreement" by U.S. Customs and Drug Enforcement Agency personnel. This overt skepticism reflects discontent over the fact that national security concerns have been neglected in the NAFTA negotiations between Canada, Mexico and the United States. Two less-than-welcome imports are likely to increase under NAFTA: drug trafficking and violence.

In May, a New York Times story on NAFTA cited a U.S. government intelligence report which maintains that Mexican drug lords are buying so-called Maquiladora companies—firms that enjoy special exemptions from paying a portion of customs duties on goods they produce for shipment to the United States. The traffickers are then establishing trucking subsidiaries of the firms, ostensibly to ship the goods they produce. When NAFTA's provisions are fully implemented, the trucks operated by these firms will be able to ship goods virtually unimpeded to any point in the United States. The result is likely to be a sharp increase in the volume of drugs transported to the United States from Mexico.

As it is, a U.S. Embassy official in Mexico stated that 70 percent of the cocaine coming into this country enters via the Mexican border. Accordingly, most law-enforcement officials estimate that seized drugs represent at most, only 10 percent of the flow across these borders.

Evaluating the effectiveness of Mexico's anti-drug program is difficult. A recent congressional trip to Mexico with Reps. Dan Burton (R-Ind.) and John Duncan (R-Tenn.) left us with the impression that "soft-enforcement" measures were seeing a renewed, increasing effort. Soft enforcement is the seizure and eradication of drugs. Such efforts are easy to measure statistically and easy to implement politically.

Nothing we say or heard, however, led us to believe that Mexico had tacked "hard-enforcement," i.e. arresting significant drug figures, cracking down on money-laundering or disrupting drug enterprises. Without a real hard-enforcement anti-drug effort by the Mexicans, NAFTA will hurt.

More disturbing though, is the fact that the increased flow of drugs will probably be accompanied by a surge in uncontrolled violence. A tragic illustration was the May 25 killing of Cardinal Juan Jesus Posadas Ocampo and six other innocent bystanders. The cardinal was caught in the crossfire of two feuding drug factions in a shoot-out at Guadalajara International Airport.

Nonetheless, increased violence is not the only negative consequence of the NAFTA-drug connection. Under the best circumstances, vast differences between the ethical framework for doing business in Mexico and that in the United States create significant problems for American firms operating across the Rio Grande. For example, the tradition of paying public officials and business agents bribes (known as mordida or the bite) is common. American firms, however, risk civil and criminal penalties under U.S. law if they pay them. When the influence of narcotics traffickers is injected into this already corrupt business environment, it becomes almost impossible for U.S. firms to do business legitimately.

The epidemic of drug-induced corruption has left the Mexican judicial system in a shambles. In the words of Jorge Tello, director general of the National Center for Drug Control, the drug trade leaves "trails of corrosion" that "erode Mexico's sovereignty."

Finally, NAFTA is not essential to the reforms needed in the Mexican business system. These reforms have been implemented over the past 10 years, reform that will continue with or without NAFTA. Jaime Zabludovsky, a Mexican government official and chief NAFTA negotiator, told us that: "Trade has doubled in the last four years without NAFTA * * * Trade will keep growing without NAFTA." Accordingly, the passage of NAFTA now appears to be largely a psychological security blanket for business, an expensive ego trip for senior government officials—and surely an opportunity for drug traffickers.

In the war on drugs, reducing availability is of paramount importance. NAFTA in its present form is likely to promote a quantum increase in drug availability. To approve NAFTA, based on mostly on hypothetical, if not flawed, economic data without considering its social, political and security ramifications will be detrimental to the United States.

[From the Wall Street Journal]

MEXICO MOUNTS A MASSIVE LOBBYING CAMPAIGN TO SELL NORTH AMERICAN TRADE ACCORD IN U.S.

(By Bob Davis)

WASHINGTON.—Critics of the North American Free Trade Agreement charge that under the trade accord, Mexico will snatch U.S. jobs. But Mexico has already set off a boon in at least one U.S. industry: lobbying.

Mexico is bankrolling a nationwide campaign to sell the trade accord, and Mexico, to Americans. Crafting and carrying out the campaign is an impressive lineup of political heavyweights, including former U.S. Trade Representative William Brock; Toney Anaya and Jerry Apodaca, past governors of New Mexico; former Commerce Department trade chief Robert Herzstein; and retired Navy Secretary Edward Hidalgo.

According to Justice Department records, Mexico's government and business interests have hired no fewer than 24 lobbying, public relations and law firms to negotiate and promote the trade pact, at an annual cost of about $15 million. The campaign has been in high gear since 1991, and may run up a total tab of $45 million by the end of this year.

IMAGE PROBLEM

Charles Lewis, executive director of the Center for Public Integrity, which tracks lobbying, says the effort may be the single biggest foreign lobbying campaign ever. "With Mexico hiring a large number of former officials," he says, "it can look like they're trying to buy the treaty."

And that's the problem. Trade pact supporters are beginning to worry that the blitz could backfire by creating the impression that the trade accord is more in Mexico's interest than in the U.S.'s. For his part, Ross Perot, a tireless adversary of the accord, recently lectured a Senate committee, "Never forget the huge lobbying effort that Mexico is making."

If the foreign lobbying, rather than the merits of the trade accord, capture the limelight, "it could be a disaster," warns Harry Freeman, who lobbies on trade issues for big U.S. companies. Meanwhile, U.S. supporters of the accord, including the Clinton administration, have been less well-organized. And U.S. opponents, led by labor unions and environmental groups, are making an impact by arguing that the pact would cost U.S. jobs and undermine environmental standards.

The accord would phase out tariffs among the U.S., Canada and Mexico over 15 years. Many economists project all three countries would gain from the accord, but Mexico should gain the most because the pact guarantees continued access to the huge U.S. market and encourages investment south of the border.

THE POWER CORRIDOR

Herman von Bertrab, an urbane Mexican businessman who runs the Mexican Embassy's operations in support of the accord, arranges to work the power corridors in Washington while at the same time building a pro-accord Hispanic bloc around the country. U.S. public relations firms help to line up speaking engagements for Mexican officials throughout the U.S., the law firms analyze specifics in the trade deal and its various side agreements, and the former government officials map the larger strategy. Congressional lobbyists work Capitol Hill.

Is Mexico overdoing it? Mr. von Bertrab doesn't think so. "We gained an understanding of how this system worked," he says. "Lobbyists are a necessary evil in the U.S."

Every Monday, Mexico's five main congressional lobbying firms meet at Mr. von Bertrab's office to divvy up work. Joseph O'Neill, a former Senate aide to Treasury Secretary Lloyd Bentsen, and Gabriel Guerra-Mondragon, who was a Clinton transition official, focus on the Democrats. The firms led by former Nixon Treasury Department aide Charls Walker and former GOP Senate aide Howard Liebengood concentrate on Republicans. To bolster links to Democrats after the election, the Mexicans just hired Christopher "Kip" O'Neill, the son of former House Speaker Thomas P. "Tip" O'Neill. Another current goal is to build contacts with the 110 new House members, many of whom campaigned against the trade accord.

The lobbyists are nothing if not persistent. In the first half of last year, for example, one Mexican lobbyist, former Rep William Ratchford, conferred 15 times with John Scheibel, an aide to Rep. Sam Gejdenson, a Connecticut Democrat who heads a trade

subcommittee, Justice Department records show. But Mr. Ratchford is no longer lobbying on the issue. Instead, he's taken a job in the Clinton administration as lobbyist for the General Services Administration.

Indeed, Mexico has become so taken with U.S.-style lobbying that a Mexican business alliance, called Coece, paid a former U.S. trade official, Tim Bennett, to lobby Mexico's negotiators during negotiations with the U.S. on the accord. Three years before signing up with Coece, Mr. Bennett was the U.S. trade representative's chief Mexico negotiator.

Mexico has appointed four former U.S. officials as senior advisers to work out strategy: Mr. Brock, the former U.S. trade representative who also has been a U.S. senator and chairman of the Republican National Committee; Mr. Herzstein, the Commerce trade official who is now a partner in the Mexicans' main law firm, Shearman & Sterling; Mr. Walker, the former Treasury aide; and Thomas Bell, a Senate aide to Mr. Brock who now is a senior official at Mexico's main public relations firm, Burson-Marsteller.

Mexican officials expect these wise men to tell them what to do about Mr. Perot's attacks on the accord and lobbyists. "Should we counterattack or just let it go?" frets one Mexican trade official. Keep cool, Mr. Brock counsels, "you can't respond to single individuals or single groups." Instead, he says, Mexico must show skeptical Americans it has "put its house in order" and is run by a "market-oriented, open-minded team of people."

To that end, Coece estimates it has treated 76 congressional aides to Mexican junkets to meet with government and business leaders. Other Mexican lobbyists have arranged tours for lawmakers and U.S. business officials. That's helped to erase Mexico's image as a "somnolent, slow-moving burrito-ville," says Mr. Bennett, the Coece lobbyist.

LACKLUSTER U.S. EFFORT

Compared with Mexico's lobbying drive, U.S. business efforts seem lackluster. Members of the Business Roundtable have raised about $2 million and set up a group called USA-Nafta, which claims 1,300 members, many of them small and medium-size businesses. But that number overstates the group's strength. To join USA-Nafta, companies simply fill out a form; no money or effort is required. "You can't expect a gun-blazing, 50-state effort at this point," says Sandra Masur, a trade official at Eastman Kodak Co. who heads USA-Nafta.

Democratic Sen. Bill Bradley of New Jersey, a staunch supporter of the accord, recently sent out a letter on USA-Nafta stationery asking companies to "let me know that you are willing to make the accord a high priority." If a vote on the pact were held today, he warned, "We would lose."

Meanwhile, the Mexican lobby seems pervasive. Mr. Anaya, a former New Mexico governor who's a friend of Jesse Jackson, tries to woo unionists and environmentalists. Mr. Apodaca, another former New Mexico governor, sets up seminars with Hispanic groups. Former Navy Secretary Hidalgo meets with mainstream Hispanic groups. Hispanic public relations firms in Florida, Texas and California are hired to burnish Mexico's image there. Leslie Pantin, who runs the Miami operations, says he is organizing a trip to Mexico next month for 60 Florida government and business leaders, including Gov. Lawton Chiles. Rodney Ellis, a black Texas lawmaker and former House aide, is hired to make overtures to blacks, including trips to Mexico for black leaders such as Agriculture Secretary Mike Espy.

Indeed, no opportunity for influence seems too remote for Mexico's legion of lobbyists. Kathleen Ann Griffith, a trade accord lobbyist paid to woo environmentalists, even published a pro-accord piece in the University of California's Journal of Environment and Development, with a circulation of 1,500.

[From the Nation, June 14, 1993]

BIG $$$ LOBBYING IN WASHINGTON—CAN MEXICO AND BIG BUSINESS USA BUY NAFTA?

(By Charles Lewis and Margaret Ebrahim)

In the summer of 1992 a Congressional aide boarded a plane at Washington's National Airport with some of her colleagues and flew down to Mexico City. Donsia Strong, a staffer with Representative John Bryant, a Texas Democrat, had been invited to take an all-expenses-paid fact-finding trip to Mexico to learn more about the North American Free Trade Agreement (NAFTA).

Her visit was arranged and paid for by a Mexican organization called the Coordinating Council for Export Business (COECE), which was created in 1990 to promote NAFTA and which works closely with the Mexican government. Strong's trip was one small part of a massive lobbying crusade waged by the Mexican government and Mexican corporation on behalf of NAFTA, which its supporters claim will create widespread prosperity and a free-trade zone linking the United States, Mexico and Canada. Opponents of the pact, including labor, consumer and environmental groups in this country and Mexico, contend that NAFTA will spur corporate flight to Mexico, hemorrhage jobs from the United States and undermine environmental, health and workplace safety regulations.

There was nothing illegal about Strong's trip—or for that matter in having a foreign business organization finance it. That's the way things are done in Washington, where lobbyists—legislative mercenaries—routinely rig debates for big-bucks clients. (Incidentially, Strong now works in Bill Clinton's White House; one of her areas of responsibility is preparing legislation to reform lobbying.) Strong was not the only U.S. government official to make a trip south of the border at Mexican expense. In the past two years, Mexican business interests have paid for so-called fact-finding trips by dozens of Congressional staff members, a handful of legislators and one governor. And this has been merely one tactic employed by Mexican corporate and government interests to influence policy-makers in Washington.

The debate over NAFTA, which will climax this fall when both the Senate and the House vote on the treaty, has yielded the most extensive—and expensive—foreign lobbying campaign on a specific issue ever seen in the capital. Since 1989 the Mexican government and business groups have spent at least $25 million to promote the development and enactment of NAFTA, hiring a phalanx of Washington law firms, lobbyists, public relations companies and consultants. That figure is conservative because it represents only the total that was reported to the Justice Department by Mexico and its hired guns.

To comprehend the magnitude of this effort, consider the costs of the three largest, most notorious foreign lobbying campaigns waged in Washington in the past quarter-century. In 1990 Hill and Knowlton was paid $10 million by the Kuwaiti government to persuade the American people of the need for U.S. military intervention in the Persian Gulf. In 1987, after the media disclosed that a Japanese company had illegally exported high-tech equipment to the Soviet Union, Japanese corporate interests initiated a major lobbying drive to prevent legislative retaliation. Up to $9 million was lavished on that campaign. And in the late 1970s, in the scandal that became known as "Koreagate," South Korean rice broker Tongsun Park acknowledged that he had distributed gifts and cash to thirty-one members of Congress from 1967 to 1977. Three Congressmen were officially reprimanded by the House of Representatives, and one was convicted of conspiracy to defraud the government. The value of Park's payments and gifts totaled roughly $850,000. Mexico's pro-NAFTA expenditures have already exceeded the combined resources of these three lobbying campaigns.

Hermann von Bertrab, a Mexican businessman who was enlisted by President Carlos Salinas de Gortari to be director of Mexico's Washington NAFTA office, acknowledges that the Mexican government alone will spend roughly $10 million on NAFTA-related activities in 1993 and that it spent about $18 million for 1991 and 1992. But he insists that only a small proportion of this money goes to lobbying. This is a common refrain of lobbyists when they describe their Washington operations. The trick is to define lobbying rather narrowly, excluding public relations, propaganda (called "education"), political intelligence and strategy development—all key aspects of lobbying.

The Mexican government and Mexican corporate interests have used much of those millions to purchase the expensive services of a potpourri of inside-the-Beltway specialists. Former U.S. government officials, who know how to massage the Washington political system, have been snatched up and placed on Mexico's payrolls. Indeed, since 1989 Mexican interests have hired thirty-three former U.S. officials who worked for a variety of government entities: Congress, the State Department, the Treasury Department, the Office of the U.S. Trade Representative and others. Their mission is to influence the political process for what is arguably the most significant trade issue to have faced the American people and their elected representatives in this century.

Why is the passage of NAFTA so important to Mexico? Because its government and corporations expect that a freshet of desperately needed U.S. investment and consumer dollars will flow into their country once the trade barriers between the two nations fall. A few million dollars is a small price to pay for what they hope will be a multibillion-dollar bonanza.

U.S. corporations that favor NAFTA—mainly companies eager to gain access to the labor and consumer markets south of the border—have mounted their own lobbying effort. Although there are practically no disclosure records now available to document expenditures, U.S. business interests are clearly spending millions of dollars. Large companies like Eastman Kodak, American Express and General Electric are members of an umbrella organization called USA*NAFTA that is waging a national campaign, and have hired the Wexler Group, the firm headed by superlobbyist Annie Wexler, the former Carter White House aide. The U.S. corporate effort works in close coordination with the Mexican government; one top Mexican official in Washington conducts liaison with the U.S. companies campaigning for NAFTA. Canada is more than adequately represented in Washington, but it has not been particularly aggressive in its lobbying for NAFTA. Canada, of course, already has a free trade agreement with the United States.

All this intensive lobbying by U.S. and Mexican interests is dedicated to drowning

out any contrary or questioning voices in the United States. It is focused like a laser on the Washington power elite and aims to see that a treaty is approved that favors corporate interests.

"This is a David and Goliath fight," notes Pat Choate, a leading expert on foreign lobbying in Washington. "One side has money and the other doesn't. What you've got here is a lobbying blitzkrieg [by Mexico and by U.S. and Mexican corporations]. They are able to bring to bear the presence of the President of Mexico, the Cabinet of Mexico, the Ambassador from Mexico. They have the major think tanks, the Council on Foreign Relations, the International Institute of Economics, the Council of the Americas, full access to the editorial boards and pages of the major and regional newspapers in this country. They are utilizing the full lobbying resources of the Business Roundtable, the National Association of Manufacturers, the Chamber of Commerce and the 100 largest industrial corporations in the United States. In addition to that, they've hired as lobbyists on retainer every leading trade expert in this country. Finally, anyone who opposes NAFTA is described as a racist, a xenophobe or someone who is ignorant of economics."

THE MEXICANS ARE COMING

When Mexican President Salinas took office in December 1988, he was not enthusiastic about knocking down trade walls between his country and the economic behemoth to the north. But the views of this Harvard-educated economist changed. In early 1990, Salinas and several top ministers visited Europe and discovered that the Western Europeans were primarily interested in investment, trade and aid opportunities in the Eastern European nations breaking free of the Soviet Union. Salinas concluded that the world was dividing into trade blocs. He did not want to see Mexico left out. The only choice, he decided, was fuller economic integration with the United States.

While Salinas was contemplating the economic future of his country, officials in George Bush's State Department and National Security Council were kicking about various trade proposals, including extending the U.S.-Canada Free Trade Agreement, signed in 1988, into a wider pact that would include Mexico. Eventually, Salinas let Washington know he was thinking along the same lines. In June 1991, the three nations opened talks on a trilateral agreement. A year and a half later, the pact—drawn up under conditions of unprecedented secrecy—was signed by Salinas, George Bush and Canadian Prime Minister Brian Mulroney at a ceremony in Washington.

Once Mexico was committed to a treaty, it wasted little time in lining up influential Americans who could grease the wheels of Washington. In September 1990, Mark Anderson, the A.F.L.-C.I.O.'s veteran international trade analyst, received a telephone call at his Washington office from a Mexican Embassy official, asking whether he was willing to meet with Herminio Blanco, who would soon become Mexico's chief trade negotiator on NAFTA. Anderson agreed, and over breakfast at the Ritz Carlton Hotel, Blanco spoke of Mexico's keen interest in NAFTA, and the Mexican government's desire to make NAFTA a reality in Washington. Blanco told Anderson he was "in town lobbyist shopping." By any standard, the shopping became a spree.

In 1990 and early 1991, Mexico was confronted by a daunting task: figuring out where to apply influence so that the U.S. political system would work in its favor. According to von Bertrab, Mexico's NAFTA liaison in Washington, at the start of its pro-NAFTA drive Mexican officials realized they had very little experience and knowledge about the inner workings of the United States. "We really did not have a clue," he says. But clues could be bought very easily. There was another problem, though: the general perception of Mexico in the United States. The Salinas government hoped to change the view of Mexico as a low-wage, socially troubled, environmentally polluted country that exports illegal aliens to the United States.

The Mexican government, through it Ministry of Commerce and Industrial Development (SECOFI), opened a Washington office separate from its embassy and hired a number of well-connected Washington law, P.R. and lobbying firms. Their overlapping missions were influencing legislators, recasting Mexico's public image in the United States, establishing "grass roots" support for NAFTA in the fifty states, gauging actual U.S. negotiating strategy. In a short period of time, Mexico was wired.

Von Bertrab speaks almost daily with Jorge Montano, Mexico's Ambassador to the United States, and Jaime Serra Puche, who is in charge of SECOFI in Mexico. On most Fridays, von Bertrab meets with SECOFI's chief lobbyists working Capitol Hill. A larger group of consultants and analysts working for Mexico, NAFTA "allies," also meets at his office about once a week.

Von Bertrab also has his own intelligence-gathering system. Every week Stephen Lande, a former Assistant U.S. Trade Representative who now works for the consulting firm Manchester Trade, sends von Bertrab papers on specific NAFTA trade issues and strategy. One of von Bertrab's key aides maintains regular contact with Gail Harrison of the Wexler Group, which effectively runs USA*NAFTA, the umbrella organization of U.S. corporations supporting the agreement. Another source is Sandra Masur, director of international trade policy for Eastman Kodak, which has a substantial presence in Mexico. Kodak is deeply involved in the so-called grass-roots effort to promote NAFTA.

Mexico's NAFTA office retained the P.R. firm Burson-Marsteller—which has handled such clients as Shell Chemical Company, Saudi Basic Industries, Salomon Brothers and Bethlehem Steel—to sell the image of a "new Mexico." The flacks at Burson-Marsteller hope to promote Mexico as a modern, industrializing nation with a technically capable work force. As part of the general outreach strategy, SECOFI has hired at least three prominent Hispanic Americans: former State Department Chief of Protocol Abelardo Valdez, former New Mexico governor Toney Anaya and former Navy Secretary Edward Hidalgo. Von Bertrab's operation even boasts a staff member who handles liaison with U.S. environmental groups and high-tech environmental companies.

Burson-Marsteller, which has been paid almost $5.4 million in fees and expenses since October 1990 by SECOFI, took several other steps to refurbish its client's image. For example, the firm produced thousands of rosy brochures titled "Partners in Trade" and "Protecting the Environment." These brochures were distributed to government agencies, U.S. legislators and numerous pro-NAFTA organizations, including the Heritage Foundation, the U.S. Council of the Mexico-U.S. Business Committee, the U.S. Chamber of Commerce and many others. The Office of the President of Mexico—as opposed to SECOFI—paid Burson over $1.5 million in fees and expenses to create television and newspapers ads that promote Mexico's supposedly tough efforts to combat drug trafficking. For its account on NAFTA, Burson-Marsteller established a speakers bureau, monitored media coverage of the trade issue and produce speeches. Burson has also funneled monthly retainer fees to two lobbying firms working for SECOFI: the Brock Group ($300,000) and Gold and Liebengood ($27,000).

ROUND AND ROUND THE REVOLVING DOOR

Playing first violin in Maestro von Bertrab's Washington orchestra is Robert Herzstein, a former U.S. Under Secretary of Commerce in the Carter Administration. Herzstein, a lawyer with the firm of Shearman & Sterling, is the top American adviser to the NAFTA lobbying campaign of the Mexican government. Shearman is the only firm retained by Mexico to do both legal work and lobbying. During the NAFTA negotiations, Herzstein was the lead U.S. counsel to the Mexican negotiating team. Herzstein's colleagues call him "Mr. Mexico."

Herzstein is a poster boy for the Washington revolving door between government and the private sector. After working on trade policy for the government in the late 1970s, in the 1980s he and his firm made hundreds of thousands of dollars as Canada's lead counsel during negotiations of the U.S.-Canada Free Trade Agreement. Since 1991 SECOFI has paid more than $5 million in fees and expenses to Shearman & Sterling for help in negotiating and passing NAFTA, according to documents the firm has filed with the Justice Department under the Foreign Agent Registration Act. What Justice records do not reveal is that Shearman & Sterling has actively tracked members of Congress and their views on NAFTA, targeting those who are on the fence and then lobbying them. For example, this past February 24, one of the firm's representatives attended a private breakfast held by the U.S. Council of the Mexico-U.S. Business Committee at the National Democratic Club to persuade new legislators to support the treaty. It has contacted governors, state and city officials, and state economic development and commerce departments to determine local sentiment toward NAFTA. The firm forwards this intelligence to Mexico's NAFTA office in Washington. Then von Bertrab dispatches one or more of his many lobbyists to work on the appropriate state or local official.

Assisting Herzstein at Shearman & Sterling are longtime lobbyist Anita Epstein and political analyst David Parkhurst. Ironically, Parkhurst served on the presidential campaign of Ross Perot—a prominent opponent of NAFTA—and he was responsible for research and Perot position papers on foreign lobbying reform.

Mexico is not counting solely on Herzstein's influence-peddling acumen. In its pockets are many other high-powered revolving-door lobbyists, including Bill Brock, whom some people in Washington tout as the "father" of NAFTA. In 1982, as U.S. Trade Representative, Brock initiated official talks with Mexico on a bilateral free-trade agreement. Nine years later, as a private consultant on Mexico's payroll, he was helping the Bush Administration enact NAFTA.

His counseling firm, The Brock Group, is a good buy for Mexico. Since 1991, it has been assisting Burson-Marsteller and providing Mexico's NAFTA office what it calls (in documents filed with the Justice Department) "strategic counseling on trade, labor and political policy issues." The Brock Group has been contacting key players on the Hill, in

the White House and at federal agencies. Brock personally discussed NAFTA with Senate minority leader Bob Dole and former Representative Donald Pease. The Brock Group is loaded with other former officials with trade experience who are working on the Mexican account: James Frierson, former chief of staff for U.S. Trade Representative Clayton Yeutter, and Otto Reich, former Ambassador to Venezuela. Reich, for one, knows how to skew a public debate. In the mid-1980s, he headed the State Department's Latin American Office of Public Diplomacy, which disseminated disinformation and propaganda to discredit the Sandinistas of Nicaragua and U.S. journalists reporting on the contra war.

Brock is one of those Washington eminences whose statements on trade matters receive serious consideration from lawmakers and opinion leaders. But not everyone he speaks to realizes he now has a personal and professional interest in NAFTA. In April 1991 Brock testified before the Senate Finance Committee. He was billed as a former U.S. Trade Representative, a specialist in the often arcane world of trade policy, someone to be heeded. He spoke favorably of a U.S.-Mexican free trade agreement. Mexican officials present must have been pleased to have such a high-profile U.S. trade expert make their case. He earned his paycheck that day. But not everyone in the committee room knew Brock was a hired gun. Brock neglected to mention he was receiving a large sum of money from Burson-Marsteller and the Mexican government at the time.

When asked later about his failure to disclose his financial link to Mexico, Brock maintained that since he had registered as a foreign agent for Mexico, his affiliation was no secret. But Congressional committee staff do not routinely trudge over to the Justice Department to check on the foreign ties of prospective witnesses. The conflicts of interest of witnesses are often not known to the committees that receive their testimony. In this case, nothing in the public record of the hearing revealed that Brock had financial loyalty to Mexico.

THE STROKING OF CONGRESS

When 122 new members of Congress were elected last November, Mexico's NAFTA team sprang into action—every new legislator was specifically targeted to be contacted by a lobbying firm retained by Mexico. One of these, Walker/Free Associates, took on the Midwesterners. Another, Public Strategies, was assigned to hammer the California and Texas members; Gold and Liebengood, Inc. was assigned the Senate Republicans and TKC International drew the new Hispanic members. These firms are considered to be among the most effective in the business. Charls Walker/Free Associates, Under Secretary of the Treasury and Deputy Secretary of the Treasury in the Nixon Administration, is one of the most renowned lobbyists in Washington. (His other clients have included Anheuser-Busch, AT&T, CBS Records, Columbia Pictures, Mitsubishi and CSX Corporation.) His associate Phil Potter is also a former Treasury Department official. Walker/Free Associates is handling much of the day-to-day schmoozing on the Hill, monitoring and lobbying new members. It has contacted more than 300 government officials over a two-year period, according to Justice Department records. Walker and his colleagues have contacted staff members of the Senate Finance Committee seventeen times and the House Ways and Means Committee eleven times.

Public Strategies is run by Joe O'Neill, once the top aide to Treasury Secretary Lloyd Bentsen when he was in the Senate. From June 1991 to October 1992, O'Neill's small firm was paid $455,771. For all that money, O'Neill visited a number of legislators to sell them on the wonders of NAFTA. Making the most of his old Bentsen ties, he contacted old friends in the former Senator's office sixteen times and contacted the Senate Finance Committee (on which Bentsen served) twenty-three times. He and his firm pitched NAFTA to Senators Brock Adams and Chuck Robb and Representatives Howard Berman, Bob Matsui, Richard Gephardt and Ron Wyden, among others.

SECOFI paid lobbyists Gold and Liebengood $523,000 in fees from June 1991 to December 1992. Howard Liebengood is a former Senate sergeant-at-arms. Many of his associates working the NAFTA beat are former government officials who have served as staff members in the House, the Senate and the Department of Health and Human Services. Gold and Liebengood contacted members of Congress and their staff nearly 500 times in a year and a half. Mary Latimer, a staffer formerly with Donald Pease and currently with the House Ways and Means Committee, was targeted fifteen times. Representative Jim Kolbe and his staff were contacted twenty-four times. According to Justice Department documents, key Senate Finance and Commerce Committee staff members were plied with "Christmas candy" from the government of Mexico, via Gold and Liebengood.

What was the need for such an army of lobbyists? For one thing, there is strength in numbers: The more lobbyists you can mobilize, the more officials you can see. And each lobbyist has—or likes to boast he or she has—special contacts with certain members of Congress or executive branch officials. Finally, that's the way things are done in this town. Von Bertrab has a simple explanation for Mexico's saturation strategy: "When in Rome, do as the Romans do."

THE SELLING OF THE PRESIDENT-ELECT

At the start of its pro-NAFTA drive, Mexico was fortunate not to have to worry about the White House. Bush was a solid friend of NAFTA. The punditrocracy pronounced him a sure two-termer. But then Bush's hold on the presidency began to weaken. And Mexico was not about to be caught flat-footed.

As Clinton's political fortunes ascended, pro- and anti-NAFTA forces launched intense efforts to win him over. Labor leaders met with Clinton and raised their objections to the treaty; unionists pressed anti-NAFTA position papers on his campaign aides. But they were outgunned by the Mexicans—who were egged on by U.S. lawmakers.

According to von Bertrab, Democratic members of Congress backing NAFTA urged Mexican government officials "to start having some connections with the [Democratic] party and the [Clinton] campaign." Von Bertrab admits he heeded the advice, but he will not say who in the campaign was approached by Mexican government reps. They had a wealth of choices. Several Clinton advisers were close to Mexican business interests or fans of NAFTA. (Some Clintonites were registered foreign agents.) One top adviser was Robert Rubin, who was at the time co-chairman of Goldman, Sachs and Company, the Wall Street investment banking firm. Rubin personally handled several of Goldman, Sachs' most important clients, including the government of Mexico. He would be named by Clinton to chair the National Economic Council. (He has since recused himself from matters involving Mexico.)

During the primaries, candidate Clinton hedged on the North American Free Trade Agreement, but he certainly was no critic. In the summer and early fall, after Ross Perot had infused the campaign with loosely populist soundbites about foreign lobbyists, job losses and cheap overseas labor markets, Clinton turned up the flame of his own rhetoric. Not only was he going to end "politics as usual" in Washington, Clinton would not back NAFTA unless certain concerns about U.S. jobs and the environment were met.

Around this time, Mexico was getting closer and closer to the next President of the United States. In September, National Journal reported that the Mexican government had retained O'Melveny and Myers, the law firm of future Secretary of State Warren Christopher, to advise Mexico on technical issues in the NAFTA negotiations, such as antidumping laws and countervailing duties. O'Melveny and Myers did not disclose these activities to the Justice Department.

That same month in Little Rock, Bill Clinton received a pro-NAFTA research paper written by two of his longtime friends, Paula Stern and her husband, Paul London. Stern had served on the International Trade Commission in the mid-1980s. She then became an economic consultant to several clients and lobbied her old agency on behalf of Japanese corporations who wanted to bring high-definition television technology to the potentially lucrative U.S. market. Stern had the embarrassing misfortune of seeing her labors exposed on an Emmy award-winning episode of Frontline. London, who has represented several overseas clients, including the Japan Society of Industrial Machinery Manufacturers, is currently in line to receive a top Clinton Commerce Department appointment.

These two F.O.B.s had been retained by the U.S. Council of the Mexico-U.S. Business Committee—pro NAFTA moneyed interests, many of which have operations in Mexico. Not surprisingly, the Stern Group's paper, titled "Investment, Trade and the U.S. Gains in the NAFTA," concluded that the treaty would have positive effects on the U.S. economy. Stern and London optimistically predicted that NAFTA would lead to the creation of 200,000 new U.S. jobs. (A number of economic studies have been published, forecasting everything from employment nirvana for U.S. workers, with thousands of new jobs created, to sheer hell, with millions of jobs lost.) Shortly after Clinton received this report, paid for by pro-NAFTA forces, he announced on October 4 his tentative support of the treaty. While he had some concerns about labor and environmental issues, ultimately the next President would help make NAFTA a reality. The public commitment was made.

Following Clinton's election, the Mexican government made its first direct approach. In November, Mexican President Salina's Chief of Staff, José Córdoba-Montoya, met in Washington with Clinton transition officials Samuel Berger and Barry Carter. Córdoba-Montoya pressed them to support President Bush's signing of NAFTA, which he did on December 17. Córdoba-Montoya also urged that Clinton commit himself to securing Congress's approval before this summer's recess. On January 9 President Salinas and Clinton met in Texas. The Mexican leader was the only head of state the President-elect met with before moving into the White House.

But that wasn't Mexico's only access to the Clinton government-in-waiting. It must have been reassuring to Mexican officials that several of the country's paid lobbyists served directly on the Clinton transition team. One of them was Gabriel Guerra-

Mondragon, a former special assistant to the U.S. Ambassador to Mexico in the 1980s and now president of two Washington-based consulting firms that have received a lot of money from Mexico. In the critical period of October-December 1992, Guerra & Associates received $81,000 from SECOFI to "make contact and meet with United States legislators and other public officials." At the same time, Guerra-Mondragon was a Clinton transition adviser on national security issues. In addition, his other firm, TKC International, has received $388,376 from SECOFI since August 1991 to lobby members of Congress, as mentioned earlier.

At Treasury, Secretary-designate Lloyd Bentsen brought in his former aide Joe O'Neill, head of the consulting firm Public Strategies, which was retained by Mexico, to assist in the transition. O'Neill interviewed prospective political appointees and helped Bentsen establish his Treasury operations.

After the inauguration, Charlene Barshefsky was nominated to be Deputy U.S. Trade Representative. She has been registered as a foreign agent for firms in Japan, Canada and Mexico. According to Justice Department records, she or her firm represented a broad coalition of Mexican companies pushing for NAFTA. When asked if Barshefsky's background posed any problem, a spokesperson for the office of the U.S. Trade Representative told The Wall Street Journal, "I believe it is a distinct advantage [to have] represented both domestic and foreign clients. That kind of well-rounded representation gives you insight." And Clinton nominated Daniel Tarullo, of Shearman & Sterling, as Assistant Secretary of State for Economic and Business Affairs. Tarullo will oversee the department's trade office. He reportedly worked for Mexico in its NAFTA trade negotiations with the United States.

FLY THE FRIENDLY SKIES

For the past two years, Mexican business interests, working in tandem with their government, have waged an elaborate campaign to "educate" U.S. government officials about the benefits of the proposed North American Free Trade Agreement. Between April 1991 and February 1993, the deep-pockets Mexican group COECE took fifty Congressional staffers—including Donsia Strong—on nine trips to Mexico. Although the Constitution prohibits members of Congress and their employees from receiving "any present * * * of any kind" from a foreign government without the consent of Congress, such trips apparently do not violate this provision because COECE is ostensibly a nongovernmental organization. However, it does have close ties to the Mexican government and advised it during the NAFTA negotiations. And its executive director, Guillermo Guemez, was formerly the executive vice president of Banco Nacional de Mexico, which until August 1991 was owned by the Mexican government.

So far the House members, the governor and nearly all of the Congressional staffers who have gone to Mexico have not publicly disclosed these activities. (Either they do not have to, or the deadline for disclosure has not yet passed—and in some cases, won't pass until after Congress has voted on the treaty.) In the Senate, staffers must receive authorization from the Ethics Committee before accepting foreign travel; their names are then published in the Congressional Record. So far, fourteen Senate staff aides have disclosed their participation in the trips.

Queries to roughly 200 Congressional aides reveal that forty-eight staff members went to Mexico on COECE's dime. Two of the most powerful committees in the House of Representatives were targeted by COECE. Bruce Wilson and Mary Latimer of the House Ways and Means Subcommittee on Trade journeyed to Mexico. So did Janet Potts, a staffer for John Dingell's House Energy and Commerce Committee.

To beef up its lobbying efforts in Congress, the Mexican business group enlisted the services of Ruth Kurtz, a well-connected former Senate aide and trade expert. Kurtz, hired for $80,000 a year, was a good catch. From 1970 to 1980, she was an international economist and U.S. trade negotiator at the Commerce Department. From 1980 to 1983 she served as a trade adviser to Paula Stern at the International Trade Commission. Then she joined the staff of Republican Senator William Roth, where she was a major author of the 1988 Omnibus Trade Act. Kurtz quit the Senate in 1989 and subsequently signed on with COECE.

Kurtz, who refused to be interviewed, earns her keep by schmoozing with former fellow trade specialists on Capitol Hill, the men and women advising legislators on NAFTA. From April 1991 through October 1992, according to Justice Department records, Kurtz or her principals discussed NAFTA in meetings with legislators on seventeen different occasions, There were two meetings with Senate minority leader Bob Dole. Others on the hit list include then-Senate Finance Committee chairman Lloyd Bentsen and Representatives Kika de la Garza, Bill Richardson and Robert Torricelli, But the real work on Capitol Hill occurs at the staff level, so the Mexican business group and Kurtz presented the merits of NAFTA to various House and Senate staffers on 220 occasions—in telephone conversations, at office meetings, over lunch. They held ten meetings with governors during this period, including two sessions with California Governor Pete Wilson. And they met with officials of the U.S. Trade Representative's office twenty-one times, including twice with Trade Rep Carla Hills. Kurtz's former employers at the Commerce Department heard her pitch on NAFTA nineteen times, including at one meeting with then-Secretary Robert Mosbacher. Nine conversations were held at the International Trade Commission. And the staff of Senator Roth, ranking minority member of the powerful Finance Committee, which has principal jurisdiction over trade matters such as NAFTA, was visited by alumna Kurtz twenty-two times.

Kurtz wined and dined some staffers at Washington's most popular restaurants: the Ritz Carlton, Sequoia, La Colline, Sam & Harry's, Joe & Mo's, Old Ebbitt Grill, the Monocle. Kurtz and her Mexican clients also played Santa Claus. According to Justice Department documents, they bought a "Christmas Gift for [a] Member of Congress" at Saks Fifth Avenue. Another Christmas gift was purchased for a Congressional staffer from Victoria's Secret, the lingerie chain. The recipients of the gifts were not named. (Congress is now considering a bill that will force lobbyists to disclose the recipients of such gifts.) Kurtz also worked the media, spinning positive stories about Mexico and with NAFTA.

But the centerpiece of Kurtz's campaign to win friends and influence Capitol Hill people was the trips to Mexico. Practically all of the trips were led and organized by Kurtz. Both Democrats and Republicans were invited on these visits. Some of the staffers work for legislators who have already decided their positions on NAFTA, and others work for legislators who are on the fence. One delegation included staffers for lawmakers concerned with Mexico's environmental record. Another brought together staff aides to members who car about Mexico's human rights record. And one tour consisted of staffers from offices that were openly anti-NAFTA.

These trips weren't junkets. Meetings were scheduled back to back. The agenda was loaded, and the visitors were exposed only to the business side of the issue. Very few meetings were held with Mexican anti-NAFTA groups, and these had to be organized independently by the staff members.

Many staffers say the experience made them better understand the importance of NAFTA to Mexico. Some left feeling unsure about NAFTA's environmental and job repercussions in the United States. But several staff aides note that they came home believing that if NAFTA is good for Mexico, it will be good for the United States. Philip Boyle, who was a legislative assistant for former Representative Frank Horton, says that Horton was undecided about NAFTA until Boyle participated in a 1991 COECE trip. Horton was among those who voted for giving President Bush fast-track authority, which allowed Bush to negotiate NAFTA without too much interference from Congress. Some staff people on the Hill report that the trips reinforced their already positive attitudes toward NAFTA. And clearly, the information they brought back made its way to the legislators. For example, Bruce Wilson, staff director of the House Ways and Means Committee's Subcommittee on Trade, says "staff findings" from these trips were shared with Dan Rostenkowski, chairman of the committee, and were made available to other committee members.

After the treaty was signed by Salinas, Bush and Canadian Prime Minister Brian Mulroney in December 1992, COECE shut down its Washington office. According to von Bertrab of Mexico's NAFTA office, the business group's primary purpose was to serve as a liaison between Mexican corporate interests and Mexican government negotiators. After the pact was signed, there was less need for the business-government interaction. But COECE still keeps Kurtz on its payroll—presumably to lobby members for the final ratification of NAFTA. While nations trying to work their way around Washington have occasionally operated through government-connected trade associations, Mexico has taken its persuasion efforts a step further. The trade analysts to the most powerful, relevant members of Congress were systematically led by the nose to Mexico to hear its carefully scripted story.

BIG BUSINESS WEIGHS IN BIG

Corporate Mexico and the Salinas government are not alone in the push for NAFTA. Hundreds of major U.S. companies, eyeing cheap labor, weak regulations and new consumers in Mexico, are crusading for the agreement. Flimsy disclosure laws make it difficult to calculate how much U.S. business interests are spending on pro-NAFTA activities. But the total runs into the millions of dollars.

The most prominent organizations pushing NAFTA are USA*NAFTA, the U.S. Council of the Mexico-U.S. Business Committee, Trade Partnership, the U.S. Chamber of Commerce, the National Foreign Trade Council, the Business Roundtable and the National Association of Manufacturers. USA*NAFTA is the largest. About 80 percent of the coalition members are companies and 20 percent of them are trade associations and what

USA*NAFTA euphemistically calls "consumer" groups, with names like Consumers for World Trade, Citizens for a Sound Economy and San Diegans for Free Trade. More than 2,000 plants operating in Mexico are owned by U.S. companies, and many of their parent companies are members of USA*NAFTA. Formed last October by Kay Whitmore, the chairman and C.E.O. of Eastman Kodak, and James Robinson, then head of American Express, USA*NAFTA claims to have raised $2 million. But according to the group, it has not yet spent much of this money. Gail Harrison of the Wexler Group, a well-connected public affairs consulting unit of Hill and Knowlton, manages an extensive grass-roots effort, which in part involves identifying companies in Congressional districts that are pro-NAFTA and enlisting them to bring local pressure to bear upon the relevant representative. USA*NAFTA also hired Mari Maseng Will of Maseng Communications as a media consultant and Chuck Levy of Wilmer, Cutler and Pickering as counsel.

USA*NAFTA is working with others in a unified network of business leaders and pro-NAFTA associations that its members have dubbed the Alliance. They have been conducting low-profile, behind-the-scenes lobbying. Within the Beltway, the Alliance has made the House of Representatives, where the treaty may be in trouble, its prime target. (NAFTA proponents believe they have a majority in the Senate.)

In this effort to woo the more volatile House, the U.S. Council of the Mexico-U.S. Business Committee, an Alliance member, sponsored a two-day event for new members of Congress, from both parties, at the National Democratic Club in Washington. The council made certain that local pro-NAFTA business leaders were present. At breakfast, lawmakers and their staffers sat surrounded by business people from their home district who praised NAFTA. Congressional NAFTA supporters, including Senator Bill Bradley, the chief Senate supporter of NAFTA, were the keynote speakers at the affair.

USA*NAFTA is building support for NAFTA at the state level. The group uses "state captains" to persuade local officials and business people to rally behind the treaty—and let their elected leaders know where they stand. The state captains are typically officials in companies that are commercially and politically influential within their states: BankAmerica in California; AT&T in Florida; Du Pont in Delaware; General Electric in Massachusetts; General Motors in Michigan; Eastman Kodak in New York; Caterpillar in Illinois.

According to USA*NAFTA's legal counsel, Chuck Levy, the U.S. business community organizations keep their activities separate from those of the Mexican government. But the Mexican NAFTA office communicates regularly with the U.S. business groups lobbying for the treaty. As with the Mexican government, U.S. corporations are spending large amounts of money to get NAFTA ratified, and their labors effectively complement Mexico's own extensive lobbying campaign. As von Bertrab says, Mexican officials are "less credible" than U.S. business people when extolling the benefits of NAFTA in the United States. U.S. companies are lobbying for what their officials believe is best for them—and, by extension, for the American people. Their entry into the fray further stacks the deck.

GOVERNMENT BY SPECIAL INTERESTS?

What has all this expensive hyperactivity wrought? The high-powered, moneyed interests have succeeded in making their agenda America's agenda—and even given it an apple pie-sounding name: North American Free Trade Agreement. William Greider has written about a sophisticated form of political manipulation he calls "deep lobbying," the purpose of which is to define public argument and debate. "It is another dimension of mock democracy—a system that has all the trappings of free and open political discourse but is shaped and guided at a very deep level by the resources of the most powerful interests."

For years, the logic, the assumptions and the seeming inevitability of NAFTA have been carefully constructed, and the reasonable concerns of environmental, labor, consumer and other groups have been brushed off as annoying but harmless gnats. Except for some token memberships on a few trade advisory committees, these modestly funded forces have been largely ignored by the trade professionals in the three governments, who have been working closely with the various North American corporations. Issues of greatest import to the great majority of people, such as the potential loss of jobs or lowered environmental standards, were treated as afterthoughts to the process. These concerns were given scant attention in the main body of the pact—hence the need for "side agreements" to NAFTA. The whole process has a cynical, cosmetic quality, with the pretense of responsible discourse included after the fact.

As with so many critical issues, the presence of a high-powered lobbying campaign makes it unlikely that decisions are being made on the merits. And that is perhaps the most damaging consequence of an operation like the selling of NAFTA. It undermines confidence in government.

NAFTA is a perfect issue for lobbyists. It is highly technical. The details are arcane. Trade matters are often disposed of far from public scrutiny. Even some members of Congress would rather not deal with them. How could the NAFTA process have evolved any differently, when so many of the former U.S. trade officials have been retained by Mexico or U.S. corporations with subsidiaries there? In such a setting, the right word from the right lobbyist can make a difference.

NAFTA is too important to leave to the lobbyists. The persuasion campaign conducted on its behalf may lead to passage of a treaty that could prove harmful to a vast number of Americans. This lobbying free-for-all is more evidence that the way Washington does business needs to change. Clinton's executive order banning former government officials from going to work for special interests may prevent future revolving-door shenanigans such as those evident in the NAFTA game. The lobbying disclosure bill now before Congress would shine a brighter light on the day-to-day activities of lobbyists in Washington. And some members of Congress are beginning to eschew all future privately funded travel by themselves and their staff. Such changes are overdue, but they are only a beginning: For as long as the present system remains in place, the public will rightly wonder whether all they are getting is the best legislation special-interest money can buy.

NAFTA'S OPPOSITION

In the past two years, an unusual anti-NAFTA coalition has emerged. People and organizations that formerly would never speak to one another are meeting on a regular basis. The opposition includes businesses, labor unions, environmental and consumer groups, and Ross Perot. Although the anti-NAFTA forces are substantially outspent by the paid lobbyists and consultants of Mexico and corporate America, their ability to mobilize their members makes them somewhat competitive.

Many NAFTA opponents belong to the Citizens Trade Campaign, a broad coalition of more than seventy national organizations. Its annual budget is a mere $200,000, and it employs only three full-time national staff members and fourteen field staffers. Former Democratic Congressman Jim Jontz of Indiana is the executive director.

The coalition has tried to generate opposition to NAFTA in public rallies and meetings across the nation by emphasizing the prospect of substantial loss of jobs and of international trade tribunals overruling U.S. regulations on workplace safety and the environment. Several unions have played an important role in the anti-NAFTA effort. The United Auto Workers, the International Ladies Garment Workers Union, the International Brotherhood of Electrical Workers, and the Machinists, Teamsters and others lobbied lawmakers and staged protests, sponsored petition campaigns and organized traveling anti-NAFTA caravans with displays, speakers and videos about worker exploitation in Mexico. The A.F.L.-C.I.O., like the U.S. business community, has taken out advertisements and worked with other groups—such as the nonprofit Congressional Economic Leadership Institute—in organizing trips to Mexico for legislators. A.F.L.-C.I.O. trade analyst Mark Anderson says the federation's opposition to NAFTA is largely unorganized and "a low-budget operation." If the federation fully mobilized its 14 million members, it could influence the NAFTA debate. Recently, however, the executive council decided to push for appropriate side agreements to the pact rather than launch a national campaign to derail it, as many union leaders have urged.

A few business organizations also oppose the treaty. The American Trade Council and the U.S. Business and Industrial Council view NAFTA as a potential threat to small and middle-sized U.S. companies less able to relocate to Mexico than big corporations. They also fear that the free-trade zone will enable overseas companies to use Mexico as an alternative staging area to circumvent U.S. import laws.

Cooperating with the anti-NAFTA business associations is Public Citizen, a Ralph Nader group. Until recently, Public Citizen has had one full-time person on the NAFTA case: Lori Wallach, who directs the trade program at Public Citizen's lobbying arm, Congress Watch. Wallach glories in being a troublemaker. During the highly secretive NAFTA negotiations in 1991 and 1992, Public Citizen and other opposition forces were locked out and complained that their concerns were not being addressed. No one would provide copies of position papers or other negotiating materials. In February 1992, Public Citizen receive a leaked copy of the NAFTA text. It released the document to the public, causing an uproar within the Bush Administration over the breach of security. The office of the U.S. Trade Representative immediately began tagging the NAFTA drafts with a secret code, so any leaked text could be traced back to the culprit. On Capitol Hill, Wallach has lobbied furiously, along with lobbyists from unions and other groups. But the money spent by the anti-NAFTA forces is a mere fraction of Mexican and U.S. corporate lobbying expenditures.

Environmentalists are split on NAFTA. Greenpeace, Friends of the Earth and the Sierra Club are active participants in the Citizens Trade Campaign. Their chief worry is

that NAFTA will make it easier for U.S.-based corporations to move their operations to poorer countries with weaker environmental regulations, thereby sidestepping U.S. laws but also jeopardizing the safety and health of indigenous people in less-developed nations. A warning sign came in 1991 when Mexico challenged a U.S. law banning tuna imports from countries that killed more than 20,000 dolphins annually during tuna catches. The Mexicans argued that the law constituted an unfair trade barrier. An international trade panel ruled in favor of Mexico. Some environmentalists envision more such cases should NAFTA be ratified. But recently six large environmental organizations—the National Audubon Society, the Nature Conservancy, the National Wildlife Federation, the Environmental Defense Fund, the World Wildlife Fund and Defenders of Wildlife—announced they would support the treaty, as long as appropriate auxiliary agreements are negotiated.

The anti-NAFTA coalition has one potential wild card: Ross Perot, who has testified twice before Congress against the treaty. His organization, United States We Stand, America—with an estimated membership of 1–2 million—is campaigning against the treaty. On May 30, Perot will devote a thirty-minute infomercial on prime-time TV to NAFTA.

Recently, Perot joined with other NAFTA opponents for lunch, during which Ralph Nader warned that Mexico and U.S. corporations will "blitz" the network airwaves with TV commercials promoting NAFTA. Perot asked how much the pro-NAFTA forces might spend. Twenty-five million, Nader replied. Perot smiled and said, "I can do that."

THE PLAYERS: FORMER U.S. GOVERNMENT OFFICIALS WORKING FOR NAFTA'S PASSAGE, 1989 TO PRESENT,[1] AS REPORTED TO THE DEPARTMENT OF JUSTICE

Registrant and current firm	Former government position (years served)
Toney Anaya—Independent Lobbyist	Governor of New Mexico, 1983–87; Attorney General of New Mexico, 1975–79; Admin. Asst. to New Mexico Governor Bruce King, 1971–72; Leg. Counsel for Sen. Joseph Montoya, 1966–69; and Exec. Asst. to the Asst. Sec. of State, 1966.
Timothy Bennett—SJS Advanced Strategies	Deputy Asst., U.S. Trade Rep. for Mexico, 1985–88; U.S. Trade Attache to the E.E.C., U.S. Trade Rep., 1981–85; and Exec. Dir., U.S. Generalized System of Preferences, U.S.T.R., 1980–81.
John Bode—Olsson, Frank, and Weeda	Asst. Sec. for Food and Consumer Services, U.S. Dept. of Agriculture, 1985–89.
William Brock—The Brock Group	Sec. of Labor, 1985–87; U.S. Trade Rep., 1981–85; Chairman, Republican Nat'l Comm., 1977–81; Sen., 1970–76; and Member, U.S. House of Reps., 1962–70.
Doral Cooper—Crowell & Moring International	Asst. U.S. Trade Rep., Office of Bilateral and Multilateral Affairs, 1981–85; Deputy Asst. Special Trade Rep. for Japan and Developing Countries, 1978–81; Economist and Exec. Dir. of the Generalized System of Preferences; Prog. U.S.T.R., 1977–78; and Economist for Int'l Finance and Trade Matters, Council of Econ. Advisers, 1975–77.
Peter Ehrenhaft—Bryan Cave	Deputy Asst. Sec. and Special Counsel (Tariff Affairs), Dept. of the Treasury, 1977–79.
James Free—Walker/Free Associates	Cong. Liaison to the White House (Carter Admin.).
James Frierson—The Brock Group	Coord., U.S. government's policy on the functioning of the GATT system in the Uruguay Round, 1987–89; Chief of Staff, Off. of the U.S. Trade Rep., 1985–89; and Special Asst. to Amb. William Brock, U.S. Trade Rep., 1981–85.
Lee Fuller—Walker/Free Associates	Majority Staff Dir. under Sen. Lloyd Bentsen, Sen. Comm. on Environment and Public Works, 1985–87; Minority Staff Dir., Sen. Comm. on Environ. and Pub. Works, 1978–85.
Peter Glavas—Gold and Liebengood	Special Asst. to Sen. David Boren, 1987–88; Tax Counsel, Sen. Boren, 1984–88; Chief of Staff, Sen. Boren, 1984–86; and Campaign Mgr. and Field Rep., Oklahomans for Boren, 1980–84.
Martin Gold—Gold and Liebengood	Legal Counsel for Sen. Howard Baker, 1981–82; Counsel for Floor Operators to Baker, 1979–80; Min. Staff Dir. and Counsel, Sen. Comm. on Rules & Administration, 1977–79; Staff, Sen. Intell. Comm., 1976; and Legal Asst. to Sen. Mark Hatfield, 1973–76.
Gabriel Guerra-Mondragon—Guerra & Associates, TKC International	Adviser on Nat. Security issues, Clinton transition team, 1992–93; Special Asst. to the U.S. Amb. to Mexico, 1980–83.
Robert Herzstein—Shearman & Sterling	Under Sec. for Int'l Trade, Dept. of Commerce, 1980–81.
Edward Hidalgo—Independent Lobbyist	Sec. of the Navy, 1979–81; Asst. Sec. of the Navy, 1977–79; Gen. Counsel and Cong. Liaison, U.S. Information Agency, 1973–76; Special Asst. to Director of the U.S. Information Agency, 1972; and Special Asst. to the Sec. of the Navy, 1945–46, 1965–66.
William Hildenbrand—Gold and Liebengood	Sec. of the Senate, 1980–84; Sec. for the Min., U.S. Senate, 1974–80; Chief of Staff, Sen. High Scott, 1969–74; Leg. Asst. to Sen. Caleb Boggs, 1961–68; Asst. Cong. Liaison, Dept. of Health, Education & Welfare, 1959–60; and Aide to Rep. H.G. Haskell, 1957–58.
Patricia Jarvis—Gold and Liebengood	Special Asst., Off. of Leg., Dept. of Health and Human Services, 1986–87.
Ruth Kurtz—Independent Lobbyist	Aide to Sen. William Roth, mid-1980s (left in 1989); Trade Adviser, Int'l Trade Comm., 1980–83; and Int'l Economist and U.S. Trade Neg., Dept. of Commerce, 1970–1980.
Stephen Lande—Manchester Trade	Assistant U.S. Trade Rep. for Bilateral Affairs (left 1982); Office of the Special Trade Rep., including Deputy Asst. U.S.T.R., 1973–82; State Dept., Chief of Econ. and Info. Services, U.S. Embassy, Luxembourg, 1970–73; and State Dept., Consular Off., Athens, Greece, 1966–68.
Howard Liebengood—Gold and Liebengood	Sergeant-at-Arms, U.S. Senate, 1981–84; Leg. Counsel to Sen. Min. Leader, 1977–81; Min. Staff Dir., Sen. Select Comm. on Intell., 1976–77; Consultant to Sen. Howard Baker, 1975–76; and Asst. Min. Counsel, Watergate, 1973–74.
George Mannina—O'Connor & Hannan	Chief Min. Counsel, House Merchant Marine and Fisheries Comm., 1983–85; Min. Counsel, House Subcomm. on Fisheries, Wildlife, Conservation and the Environment, 1975–83; Leg. Asst. to Rep. Edwin B. Forsythe, 1972–75; and Admin. Aide to Rep. Gilbert Gude, 1971–72.
Mary Lou McCormick—Formerly of Gold and Liebengood	Press Asst., Deputy Press Sec., and Press Sec. to Sen. Bob Packwood, 1981–87.
Joseph O'Neill—Public Strategies	Admin. Asst. to Sen. Lloyd Bentsen, 1980–84; Exec. Asst. to Sen. Bentsen's Texas office, 1972–79.
Phil Potter—Walker/Free Associates	Aide to Sen. Peter Dominick, 1969–70; Senior positions, Dept. of Treasury, 1970–71.
William Ratchford—Gold and Liebengood	Member, House of Reps., 1979–85.
Otto Reich—The Brock Group	Amb. to Venezuela, 1986–89; Special Adviser to the Sec. of State, Interagency Office of Pub. Diplomacy for Latin America and the Caribbean, 1983–86; Asst. Admin., U.S. Agency for Int'l Devel. Progs. on Latin America and the Caribbean, 1981–83; and Staff Asst., House of Reps., 1970–71.
Mark Robertson—Gold and Liebengood	Leg. Dir. for Rep. Stan Parris, 1980s.
John Scruggs—Gold and Liebengood	Asst. Sec. for Legislation, Dept. of Health and Human Services, 1983–84; Special Asst. to the Pres. for Leg. Affairs, 1981–82; Floor Asst. to House Republican Whip Trent Lott, 1980–81; and Staff Member of the House Rules Comm., late 1970s.
Peter Slone—Gold and Liebengood	Deputy, Nat'l Campaign Mgr., Mondale for President, 1984; U.S. House Approps. Comm. Assoc. Staff, and Cong. Liaison to the House Educ. and Labor Comm. and Select Comm. on Aging, office of Rep. William Ratchford, 1978–83.
James Smith—Walker/Free Associates	U.S. Compt. of the Currency, 1973–76; Deputy Under Sec., Treasury Dept., and Dir., Off. of Cong. Relations, Treasury Dept., 1969–73; Min. Counsel to the Sen. Subcomm. on Intergovt'l Rel., 1960–62; and Leg. Asst., Sen. Karl Mundt, 1957–60.
Michael Smith—SJS Advanced Strategies	Deputy U.S. Trade Rep., 1980–88; U.S. Amb. to GATT, Geneva, 1979–83; Chief, U.S. Textile Negotiator, 1975–1979; Deputy Chief, then Chief, Fibers and Textile Div., U.S. State Dept., 1973–74; Chief of Pres. Corres., for the White House, 1970–73; and Foreign Service, various positions, including Foreign Service Off., 1958–70.
David Tarullo—Shearman & Sterling	Nominated to be Asst. Sec. for Econ. and Bus. Aff., State Dept., 3/19/93; not confirmed as of press time. Chief Employ. Counsel of the Sen. Comm. on Labor and Human Resources, 1987–89; and Exec. Asst. to the Under Sec., Dept. of Commerce (Int'l Counsel), 1980–81.
Abelardo Valdez—Independent Lobbyist	Amb., Chief of Protocol, State Dept., 1979–81; Asst. Admin. for Latin America & the Caribbean, U.S. Agency for Int'l Devel., 1977–79.
Charls Walker—Walker/Free Associates	Deputy Sec. of the Treasury, 1972–73; Under Sec. of the Treasury, 1969–72; and Asst. to the Sec. of the Treasury, 1959–61.

[1] Chart reflects those who have lobbied or done other pro-NAFTA or trade-related work.

Mr. MOYNIHAN. Mr. President, earlier today the Committee on Finance and other committees to which the NAFTA was referred placed in the RECORD statements regarding S. 1627, the bill to implement the NAFTA. I ask unanimous consent that a statement by the Commerce Committee, now available, be inserted in the RECORD at this point.

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

STATEMENT OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

At its executive session on Thursday, November 18, 1993, the Committee on Commerce, Science and Transportation considered the portions of S. 1627, legislation to implement the North American Free Trade Agreement (NAFTA), within the jurisdiction of the Committee, and ordered them reported without recommendation.

SUMMARY OF PROVISIONS WITHIN THE JURISDICTION OF THE COMMERCE COMMITTEE

The provisions of the bill considered by the Committee are briefly described below.

Corporate Average Fuel Economy (CAFE)

The Energy Policy and Conservation Act, as amended, requires that each auto manufacturer selling new cars in the U.S. achieve certain average new car and light truck fleet fuel economy standards. Under the Act, each manufacturer must separately achieve the required CAFE levels on its "domestic" and "import" fleets of cars and light trucks. Under existing law, an automobile is considered domestically manufactured if:

"At least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year." 15 U.S.C. Section 2003(b)(2)(E).

Under NAFTA, Mexican value added to a vehicle's manufacture would be counted toward its domestic content for CAFE purposes. This change in law would be phased in over ten years. Thus, beginning with model year 2005, all U.S., Canadian or Mexican value added would be credited towards the vehicle's domestic content for CAFE calculation purposes, if such vehicles are sold in the United States. The phase-in period is designed to assist manufacturers who are currently dividing their vehicle production between the United States, Canada or Mexico to meet the CAFE law's requirements.

To implement these provisions of the NAFTA, section 371 of the bill adds Mexico to the United States and Canada in the Corporate Average Fuel Economy definition of "domestically manufactured" (15 U.S.C. 2003(b)(2)(G)). The existing CAFE definition of "automobiles," which includes both passenger automobiles and light trucks, is not

affected by the proposed implementing bill or regulatory changes.

Manufacturers that began production of automobiles in Mexico before model year 1992 may make a one-time election at any time between January 1, 1997, and January 1, 2004, to apply the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that began or begin production of automobiles in Mexico after model year 1991, the new definition will apply beginning with the next model year after January 1, 1994, or the date that the manufacturing begins production of automobiles in Mexico, whichever is later.

Manufacturers that produce automobiles in Canada or the United States but not in Mexico (and that may procure inputs from Mexico) may make a one-time election at any time between January 1, 1997 and January 1, 2004, to apply to the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that do not produce automobiles in any NAFTA country (but that may procure inputs from Mexico), the new definition will apply beginning with the next model year after January 1, 1994.

Standards-related measures

Title IV of the Trade Agreements Act of 1979 implementation the obligations of the GATT Agreement on Technical Barriers to Trade, commonly referred to as the Standards Code, in U.S. law. The Standards Code seeks to eliminate national product standardization and testing practices and certification procedures as barriers to trade among the signatory countries and to encourage the use of open procedures in the adoption of standards. At the same time, it does not limit the ability of countries to reasonably protect the health, safety, security, environment, or consumer interests of their citizens. Since U.S. practices were already in conformity with the Standards Code, Title IV did not amend, repeal, or replace any previous law. It simply required all federal agencies to abide by the provisions of the Standards Code.

Chapter Nine includes similar obligations regarding standards-related measures for the three NAFTA countries. Section 351 of the implementing bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards-related measures under the NAFTA. Chapter 2 of the new subtitle contains provisions to implement NAFTA Chapter Nine.

Federal agencies have been subject to the requirements of Title IV since 1980. These requirements continue to apply to standards activities of Federal agencies, which include many of the standards-related measures under the NAFTA. However, the definitions and coverage of Chapter Nine differ from the definitions and coverage of the Standards Code, so it is necessary to provide separate legislative provisions in the Table Agreements Act of 1979 to implement Chapter Nine of the NAFTA.

Section 471 of the new subtitle contains general provisions. Section 472 of the new subtitle assigns to the standards information center established under Section 414 of the Trade Agreements Act of 1979 the additional duties prescribed under Chapter Nine. The National Institute of Standards and Technology (NIST) under the Department of Commerce currently serves as the standards information center.

Section 473 of the new subtitle provides definitions of the terms used in Chapter 2 of the new subtitle. These definitions are drawn directly from the definitions in the NAFTA. The definitions of "standard" and "technical regulation" are taken from the notes to Article 915 agreed to by the NAFTA countries.

Committee on Standards-Related Measures

Article 913 of the NAFTA establishes a trinational Committee on Standards-Related Measures, whose functions include facilitating the process by which the three NAFTA countries make compatible their standards-related measures and enhancing cooperation on the development, application and enforcement of standards-related measures. Subcommittees will be created to address specific issues, including land transportation, telecommunications, automotive standards and textile and apparel goods.

Section 352 of the bill provides that any regulations issued by the Secretary of Transportation implementing a recommendation of the Land Transportation Standards Subcommittee may not take effect before 90 days after issuance.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as if in morning business and that the time not be charged against the North American free-trade agreement bill.

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

The Senator may proceed.

THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993—S. 1663

Mr. RIEGLE. Mr. President, I rise today as a joint cosponsor of S. 1663, the Domestic Chemical Diversion Control Act of 1993 with Senator LEVIN.

In towns and communities across the upper peninsula of Michigan, we've witnessed a frightening rise in the abuse of methcathinone [cat]—law enforcement officers are overwhelmed with investigating these cases, prosecutors see no end in sight. Methcathinone has already become a regional epidemic, and is well on its way to becoming a national nightmare. As with its chemical analog methamphetamine, the production of methcathinone requires use of one critical component—the over-the-counter drug ephedrine. Our bill will allow the continued legal use of ephedrine as a bronchodilator, while giving the Drug Enforcement Agency the ability to attack illegal drug production.

Many Senators may never have heard of methcathinone, also called cat. Cat is a white power which is ingested by sniffing, like cocaine, or by dissolving it in water and shooting it intravenously. Intravenous use brings with it the added risk of transmission of the AIDS virus. This drug devastates its victims. Cat is a highly addictive drug, much more so than cocaine. The high lasts longer than cocaine and also causes a severe fall for the user. It is common for cat users to continuously get high for several days at a time, without sleeping or eating. According to prosecutors, the drug can cause severe disorientation and temporary paranoid schizophrenia; they indicate that many of the people arrested are starved, barely clothed, and can take 3-4 weeks to detoxify—much longer than with most other illicit drugs. Some former users have admitted that they would have continued doing the drug until they died—police arrest literally saved their lives.

By mixing ephedrine with other, easily obtained legal substances, traffickers product cat and methamphetamine in small laboratories. This abuse of ephedrine is so dire that some States have already passed legislation prohibiting over-the-counter sales—unfortunately, the ephedrine is still getting in. Our bill attacks this problem by putting an end to largely unregulated access to ephedrine—it will still be marketed as one of several active ingredients in asthma medicines, but the Drug Enforcement Agency will now have the necessary authority to supervise and regulate ephedrine distribution to prevent diversion and illegal use.

When I first learned of this epidemic this past summer, I listened to the opinions of the law enforcement officers and prosecutors who are battling this tragedy. They all agreed on one thing—that the Food and Drug Administration needed to elevate ephedrine from an over-the-counter [OTC] substance to a prescription drug. I immediately contacted both the Food and Drug Administration Commissioner, Dr. David Kessler, and Health and Human Services Secretary Shalala, outlining the issue and requesting that the FDA report back with a strategy to control access to ephedrine. While I understand that there is limited precedent for the FDA in this area, I feel strongly that the FDA must be responsive to issues of misuse and abuse of substances within their control. It is critical that the FDA reassess drug status final rulings when overwhelming evidence of drug misuse and abuse is presented, and I hope that Commissioner Kessler will work toward that goal.

Before I conclude, I would like to recognize the efforts of community groups like the Upper Peninsula Children's Coalition, police organizations, and the prosecutors who have worked so hard to combat the CAT epidemic. I am particularly pleased to recognize our Assistant United States Attorney Glenda Gordon, for her tireless efforts in prosecuting methcathinone cases. Ontonagon County Sheriff Jerry Kitzman, Marquette County Sheriff Joe Maino, and dozens of law enforcement officers have done outstanding work in investigating these drug cases and protecting our citizens in the

Upper Peninsula. I wholeheartedly support their efforts, and hope that our bill will assist them in eradicating the CAT drug epidemic.

TRIBUTE TO B'NAI B'RITH

Mrs. MURRAY. Mr. President, this year marks the 150th anniversary of B'nai B'rith. I would like to join in saluting this organization for its years of service to the international community. The oldest organization of its kind in the United States, B'nai B'rith transcends economic spheres, national borders, and religious diversities in its commitment to helping others.

Originally established in 1843 to address the needs of the Jewish people, B'nai B'rith has expanded its agenda to include education, social service, and countless other projects which benefit the community at large. Through the Senior Citizens Housing Program, B'nai B'rith has helped provide affordable housing and social services for the elderly and their families. Through their efforts, more than 3,000 apartments have been established across this country.

While never losing sight of its original purpose, B'nai B'rith has played and continues to play a pivotal role in fighting religious persecution, intolerance and discrimination. Since its establishment, B'nai B'rith has always held an open door to the disadvantaged and downtrodden. In response to the floods of new immigrants to this country in the late 19th century, B'nai B'rith opened the first free employment bureau, as well as manual and technical schools. After World War I, B'nai B'rith fed, clothed, and educated 600 orphaned European children until they were able to support themselves.

Through a century and a half of service, B'nai B'rith has repeatedly shown its ability to respond to the needs of the community—both in the United States and abroad. In 1868, B'nai B'rith successfully organized the first disaster relief campaign in the United States for victims of a Baltimore flood. More recently, B'nai B'rith provided relief for victims of Hurricane Andrew and those caught in the cross-fire in the former Yugoslavia.

As a pioneer in the field of youth services, B'nai B'rith addresses the needs of our world's teenagers and college students. The B'nai B'rith Youth Organization offers teens throughout the world opportunities to cultivate leadership skills, a positive Jewish identity, and a solid commitment to community service. The B'nai B'rith Hillel Foundation has chapters in over 400 universities around the world. Hillel focuses much of its energy on addressing social ills, promoting Holocaust awareness, and expanding interfaith dialogue.

B'nai B'rith has raised awareness and pride in the Jewish heritage, while making a real difference in the lives of countless numbers of people—Jews and non-Jews alike. I congratulate them on their accomplishments.

JUSTICE IN CHILE

Mr. KENNEDY. Mr. President, in September 1976, Orlando Letelier, the former Chilean Ambassador to the United States, and Ronni Moffitt, his American assistant, were brutally assassinated in the heart of our Nation's Capital by agents of the Chilean secret police. Since that day, I have pressed every administration in Washington and Santiago to ensure that the individuals responsible for this cold-blooded act of terrorism are brought to justice.

Last week, justice was served when Manuel Contreras, the former head of Chile's secret police, and Pedro Espinoza, his chief of operations, were sentenced to prison for ordering the Letelier-Moffitt murder.

At the time of the assassination, Chile was under the brutal military dictatorship of Gen. Agosto Pinochet, who had overthrown the democratically elected government of President Salvadore Allende through a bloody military coup. Orlando Letelier had served as Chile's Foreign Minister and as Ambassador to the United States under the Allende administration, and he had courageously challenged the Pinochet regime. At the time of his death he was working with many of us in Congress to promote democracy and respect for human rights in Chile. His patriotism and courageous leadership cost him his life.

Evidence from the crime in Washington clearly linked Chile's secret police with the assassination. Shortly after the murder, a Federal grand jury indicted Contreras, Espinoza, and a number of Pinochet's other henchmen for conspiring to murder Letelier. The Pinochet regime, however, refused to allow them to be extradited to the United States.

In response to the regime's intransigence, I sponsored legislation to prohibit United States assistance to Chile until progress had been made on this case and respect for democratic principles and human rights was reestablished in Chile. Tragically, throughout the next 14 years of the Pinochet dictatorship, the government in Santiago continued to shelter Contreras and Espinoza and to repress the forces of justice and democracy in Chile.

In 1990, Chile returned to the community of democratic nations following the election of President Patricio Aylwin. Sanctions against Chile were lifted as a vote of confidence by the United States in the Aylwin government and its commitment to democracy and human rights.

The Aylwin administration lived up to this commitment. In recognition of the Chilean Government's responsibility for the Letelier-Moffitt murders, it provided compensation to the families of Orlando Letelier and Ronni Moffitt and began criminal proceedings against Contreras and Espinoza. Last week, a federal judge sentenced Contreras to 7 years, and Espinoza to 6 years, in prison for their role in that atrocity.

I commend the bravery of the Aylwin administration and the integrity of the Chilean judiciary for ensuring that justice was finally achieved for the Letelier and Moffitt families and for doing so much to restore respect for democracy and human rights in Chile.

SENATE CONCURRENT RESOLUTION 31: EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. LIEBERMAN. Mr. President, on a number of occasions over the past several years, many of my colleagues and I have condemned the Government of Iran for its repressive policies and actions toward its Baha'i community. The resolution we are acting on today is, in fact, the sixth such resolution this body has passed calling on Iran to change its repressive anti-Baha'i policies and to protect the rights of all its people including minorities such as the Baha'is.

Since the Senate passed it first resolution on the Baha'is in 1982, we have seen some improvement in the situation. Persecution of individual Baha'is seems to be less severe than in past years. Expressions of international outrage and the application of diplomatic pressure has had some effect—even on the isolated and close-minded regime in Iran. But the progress that has been seen is still not enough. It is not enough to say that the Government is not persecuting these people as much as they used to. It is not enough to say that only one Baha'i has been executed in the last 5 years for his religious beliefs when compared to many more executions before this. It is not enough to say that the Government of Iran is now willing, in the words of the recently disclosed 1991 policy document of the Government of Iran, to "permit them a modest livelihood." It is not enough that the Government of Iran is willing to allow Baha'is to be enrolled in schools. It is not enough when all of these rights are dependent on citizens not identifying themselves as Baha'is.

The real thrust of Iranian policy is seen in the provisions that say Baha'is "must be expelled from universities * * * once it becomes known that they are Baha'is" or that the Government will "deny them employment if they identify themselves as Baha'is." A policy which calls for a plan to "be devised to confront and destroy their cultural roots outside the country" and to "deny them any position of influence, such as in the educational sector, et cetera" is a policy of repression and denial of fundamental human rights.

Such a policy violates the obligations of sovereign states to uphold the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of citizens. Such a policy must change if Iran is ever to rejoin the community of nations.

Our action today in passing this resolution is consistent with the actions of the U.S. Government and responsible international bodies for many years. The Reagan and Bush administrations worked to gain international support for the Baha'i community. In his speech dedicating the Holocaust Museum in Washington in April of this year, President Clinton cited "the abusive treatment of the Baha'i in Iran" as a critical human rights concern. The State Department has worked diligently to secure passage of U.N. resolutions condemning Iran for its persecution of the Baha'is and to raise the issue at all relevant international forums. The U.N. General Assembly has adopted five resolutions since 1985 condemning Iran's human rights abuses with specific reference to the Baha'is. The German Bundestag and the European Parliament have also adopted resolutions condemning Iran's treatment of its Baha'i community.

And so we come before the Senate once again with a resolution which will keep this critical issue in the public eye and will maintain international pressure on Iran to change its ways. The American people understand very well that if the rights of all members of a society are not protected, then the rights of no one in the society are secure. We do not expect Iran to become a Jeffersonian democracy. But we and the entire world community have a right to expect and to demand that it not persecute any of its peoples solely for their religious preferences. How can a society consider itself to be just and based on the law of God when it persecutes in a broad and systematic fashion 300,000 of its citizens who constitute the largest religious minority in Iran? Iran must end its bypocrisy and extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and international covenants on human rights.

I urge my colleagues to support this resolution and our continuing effort to bring about change in Iran.

CAPITOL BICENTENNIAL CELEBRATION

Mr. BYRD. Mr. President, on September 18, 1793, President George Washington officiated at the laying of our Capitol building's first cornerstone. Two hundred years later, on the evening of September 17, 1993, the United States Capitol Historical Society hosted a bicentennial dinner in Statuary Hall to celebrate that historic event. The dinner followed an afternoon program during which Society President, former Representative Clarence J. Brown, presented a significant addition to the Capitol's art collection: a mural, located on the first floor of the House wing, entitled "Westward Expansion."

Mr. Brown invited former Senate Majority Leader Howard Baker and me, in after-dinner remarks, to offer our impressions, based on personal observation, of the development of Congress and the Capitol over the past 40 years. I found former Senator Baker's observations to be characteristically insightful and entertaining, and I would like to share them, along with my own, with the widest possible audience. Accordingly, I ask unanimous consent that the transcript of those remarks, along with those made earlier that day by Senate Historian Richard Baker, be printed in the RECORD.

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

CAPITOL CORNERSTONE DINNER, U.S. CAPITOL HISTORICAL SOCIETY, WASHINGTON, DC, SEPTEMBER 17, 1993

Former Senator Howard Baker. Brian Lamb, thank you so very much—and ladies and gentlemen, what a pleasure to be here—and Brian what a marvelous way to say that you did not like my picture. Congressman Brown, Senator Byrd, distinguished ladies and gentlemen, Members of Congress, and good friends:

It is an awesome thing to be here tonight and have this opportunity to speak to you on the occasion of the 200th anniversary of the laying of the cornerstone of the Capitol. But it is equally awesome to do so in the presence of George White, the Architect of the Capitol, and Bob Byrd who is the absolute master not only of the history of the Senate but of this institution, the Congress, and no doubt of this building, as well. But, my friends, I will do my very best.

When I first arrived in Washington as a Member of the United States Senate in January of 1967 and as a very junior Senator from Tennessee, and when anybody paid attention to me, as Brian said, usually did so as Ev Dirksen's son-in-law, rather than as a Senator, I remember distinctly traveling from what is now the Russell Building to the Capitol through the subway, up the elevators, and approached the Senate Chamber, and was promptly stopped by a Doorkeeper who thought I had no right to enter. Well, two things come to mind. First, I was then a young man, a condition from which I have now recovered. And second, to recall vividly that I said to the Doorkeeper: "Son, if you had any idea how hard I worked to get here, you'd have no notion that you could stop me now."

So, I took my place, received the Oath of Office from the Vice President of the United States, and began eighteen years of service in the United States Senate. I will always treasure that experience. It was, indeed, the high point of my public career. As Brian pointed out in his little vignette of my life, I have also had the opportunity to do other things, including being Chief of Staff to the President of the United States. But, my friends, nothing—nothing ever comes close to the opportunity to serve in the Congress of the United States. It is the highest estate that a public servant can attain and the greatest service that a private citizen can give to this republic. And I am awed with the opportunity to stand here and help you celebrate not only that tradition, but this building which has housed so much history and which is the home of that tradition, as well.

I remember, if you will let me wander for a few minutes, and then I will get on to the few remarks about the history of the Capitol—I remember once when I was Majority Leader of the United States Senate and my good friend Bob Byrd was then Minority Leader, that he and I agreed that I would keep (?skipped something) but the sun was setting gently behind this majestic scene, and I looked out the window with Reagan by my side and I said: "Mr. President, this is the best view in Washington." He said, "No, Howard, this is the second best view in Washington."

But you see, my friends, Ronald Reagan was wrong. This is the seat of the republic. This is the people's branch. And this is the locale of the strength and the wisdom of self-governance in this nation—this building which houses the people's branch. And what a magnificent opportunity for all of us to celebrate the beginnings of this structure—not the beginnings of the republic, and certainly not the beginnings of the concept of representative government—but this place where the American brand was put on that. Where we demonstrated our unique talent as Americans for self-government. Where we created an image that is now the envy of the entire world in terms of the elaboration and extension of individual rights. Where we created a nation from this place that is without peer in the annals of all the history of civilization. Where we suffered the divisive issues. Where we withstood the challenges of war. Where we extended the blessings of liberty and opportunity to the downtrodden. Where we provided for the freedom of every individual. Where we breathed life into the charter documents of the republic. That is what this place is. It is the home of America. It is the center of the nation. it is the height of the ambition of humanity, thus far in the history of civilization.

My friends, I stand here in the presence of these secular saints, and others who line the corridors to the Senate Chamber and to the Chamber of the House of Representatives, and luxuriate in the contributions that they made to this evolutionary dream, and acknowledge fully and freely that we are the fortunate legatees of their wisdom and of their dedication and sacrifice. That, too, is what this building is all about.

So, when I had an opportunity to visit with George White, the distinguished Architect of the Capitol, and ask him, as I did a little while ago, "George, have you really found the cornerstone of the Capitol?" and he gave me a long answer, as you would expect a thoroughly professional and distinguished architect to do—which I will not now repeat, except to say I declare that we found the cornerstone of the Capitol. And it may not be a piece of sandstone, therein partially buried under the earth. The cornerstone of this building, my friends, is the institution that it houses. And that truly is what we celebrate now on this 200th anniversary occasion.

Now let me tell you a few other reminiscences about this place as I knew it. First of all, forgive the immodesty, if it is immodest that I exhibit in saying that I feel a personal kinship to this place not only because of my service here, but because my father before me served in this place, in the

House of Representatives, as did my mother. My wife's father served here for many years and became before me the Republican Leader of the Senate. So, in many ways, I am a product of this place, and from earliest childhood I was imbued with the spirit of the Congress, the spirit of the republic, and the importance of this place.

So, it was a special, a very special time in my life, when I had the opportunity to serve, and a very special time when I was elected Minority Leader of the United States Senate and first occupied S. 230 in the Senate Wing of the Capitol. Some of you know perhaps, and I am fond of saying, and it is true that S. 230 served many purposes. It is, I believe, the first space that was occupied when this building was under construction, when the Congress came down from Philadelphia. It was then briefly the Library of Congress. By the way, there were only three-thousand volumes in the Library of Congress, and the bookcases were designed by Latrobe, and the original water color drawings still exist of those bookcases. S. 230 is the room to which the British repaired in August of 1814 to set fire to this structure. They took those books off the wall and made a bonfire and destroyed the building. Bob Byrd will be sympathetic when I say that when I was Leader, there were occasions when I was tempted to do the same.

I also like to tell the story, which is not true, in my moments of frustration (that this one is not true, the other one was true, but that's not bad on average for a politician)—but I like to tell the story in moments of frustration that when I was cleaning out my little private corner of the office—S. 230 that historic place—behind a baseboard, I found a letter from Thomas Jefferson to one of his brothers. And it said: "Dear George, I've stood about all this democracy stuff that I can handle." And I'll bet he felt that way sometimes because you see, my friends, this is the place where we thrash out the controversy, where we attenuate the gross instincts of humanity. This is the place where we formulate the public policy of the greatest nation on earth. But it is not easy. And don't let anybody ever tell you that people here are a people of privilege. Don't let anybody tell you that Congressmen and women are not hard working. They are the hardest working people I ever knew in my life. Don't anybody ever let'em tell you that Members of Congress are without honor. They are, by and large, the greatest, finest people I ever knew.

Will Rogers is represented, if not in this room, someplace in this building; and as you remember, he was a great philosopher from Oklahoma and also a reporter for the Claremore paper. And they tell the story on Will, that after he'd been there awhile, he went back to Ardmore, Oklahoma, and he was walking down the street, and somebody said: "Will, I want to know, is it true, since you've been there awhile, is Congress really made up of thieves and rascals?" Said Will, "Of course, it's true, but it's a good cross section of its constituency."

But, my friends, it is not true. The Congress of the United States is the essence of this nation. The Congress of the United States is, indeed, the people's branch. The Congress of the United States is the place from which the grandeur of this nation has emanated for more than 200 years. So, it's altogether fitting and appropriate, my friends, that we acknowledge this place as the symbolic center of the union. We acknowledge those who have gone before us; we celebrate the grandeur of this building; we revel and delight in 200 years of our history so far; and we look forward with calm assurance to a time of even greater accomplishment and achievement for this nation in the centuries ahead.

Thank you very much.

Senator ROBERT BYRD. Thank you, Brian. And I thank C-SPAN for what C-SPAN is doing to bring current history to the people of this nation. I thank Clarence Brown, President of the United States Senate Capitol Historical Society. I thank the man who has already performed the most important part of this program: the Reverend Mr. Ford, Chaplain of the House of Representatives. And I thank my friend Howard Baker for being here tonight, and for being a statesman upon a good many occasions when I worked with him as Majority Leader and as Minority Leader.

I served with Howard Baker, and I served with his father, and I served with his father-in-law. I was a new Member of the House and didn't know much about things there, and I can't recall much about my service with his father. But I recall my service with his father-in-law. And they were both leaders. They were leaders of their party in the Senate. And they were the kind of leaders that make one proud. I saw in those two leaders, two men who chose statesmanship on many occasions over partisanship. And I have to tell you, that kind of statesmanship has become pretty rare around here. Fame is a vapor, popularity an accident. Riches take wings. Those who cheer today may curse tomorrow. Only one thing endures: character. And Howard Baker has it.

Ladies and gentleman, the ancient Romans invented and developed the dome. In the second century A.D., Roman architects placed one of the largest and earliest domes in the world on the Pantheon, a structure still standing above the Tiber River in the Eternal City.

In that same spirit, throughout western history, people have placed domes on buildings in which vital and valued functions have taken place.

Thus, a great dome was placed on Hagia Sophia, Justinian's fabled church in Constantinople. That was followed more than one-thousand years later by the dome of St. Peter's in Rome, and even later by Christopher Wren's dome of St. Paul's in seventeenth-century London.

Our Founding Fathers were students of Roman history. And I wish that we had many more students of Roman history in this Congress today, and in this country. Montesquieu was a student of Roman history. As a matter of fact, Montesquieu wrote a history of the Roman people. For that reason, in part, we meet here tonight atop the rise that the Founding Fathers christened "Capitol Hill"—formerly called "Jenkins Hill," but renamed in honor of Rome's Capitoline Hill.

When architect Pierre L'Enfant first visited these grounds on which we assemble tonight, he described Capitol Hill as "a pedestal waiting for a monument." Here, the Capitol building was constructed, with its magnificent vistas down the mall toward the Potomac River.

Again, reflecting ancient Rome's influences, at the base of Capitol Hill, a little stream called Goose Creek separated Capitol Hill from the rest of the city. And with Rome on their minds, the city's planners retitled Goose Creek imperiously "Tiber Creek," although it has long since disappeared from view. Tiber Creek still flows under this city, channeled under the mall and around the foundations of our massive government buildings.

Not surprisingly, then, from the outset, America's Founding Fathers conspired and planned together for the domed "People's Palace" in which we have the good fortune to be gathered tonight.

That dome above us proclaims to all ages—past, present, and future—that the institution housed here is of paramount import to the system of government embodied in this capital city.

Tonight, we meet to commemorate the 200th anniversary of the launching of this mighty domed structure—the United States Capitol building.

This building was not constructed in a sweeping effort.

The first structure that was erected here—small and dwarfed by our current Capitol—was burned and largely destroyed by the British in the War of 1812.

Subsequently rebuilt, and expanded, less than a half century later, in the 1850's, new wings were constructed to house the much-enlarged Senate and House of Representatives—part of this construction being carried out under the auspices of then Secretary of War Jefferson Davis.

But, as if in dramatic defiance of the circumstances of the era, during the early 1860's, as the War Between the States was being fought, at times within earshot of the Capitol building itself, the familiar Capitol dome that today rises above us was being completed.

In the 1950's, after nearly a century of use and erosion, the deteriorating condition of the old sandstone East Front decreed its replacement with more durable materials. In the face of considerable controversy, the new East Front was also moved forward, to the consternation of traditionalists and preservationists.

During the 1960's, similar concerns were raised about the West Front, where again the sandstone was crumbling. In emergency response, the architect erected great wooden beams, ostensibly to keep the West Front pillars from collapsing in the event of a sonic boom. But this time, the preservationists won the struggle, and the West Front was restored, not replaced, leaving that front largely unchanged in appearance.

I know that you all join me in the sense of gratitude that we harbor toward all of those who have conjoined their talents, their influence, and their dedication to preserving and restoring this beloved structure. Certainly, the efforts of our generation to protect this sacred place against the ravages of time and the elements will ensure the Capitol's continued beauty and usefulness for many decades to come.

But from the beginning, the U.S. Capitol building has been both a practical facility and, to borrow a note from Howard Baker, the symbol of the living institution that physically resides here—the United States Congress—the Senate and the House of Representatives. There have been two great senates in the history of the world: the Roman Senate and the American Senate—the "people's branch," as my former colleague Howard Baker stated it—under our Constitution.

Democracy is a living form of government that must constantly adjust to the demands placed upon it by a changing society, and I have supported a number of reforms since I first entered the House of Representatives in 1953.

But as a student of history, I also know that the pages of history are replete with accounts of the collapse and fall of other great

nations and civilizations. The mighty Roman Empire was for centuries the marvel of the world. And it is still the marvel of the world for those who are students of ancient history. But, as Edward Gibbon warns us, the decline of the Roman Empire began when public virtue and patriotism gave way to immorality and sedition, and when Roman citizens demanded free bread and circuses. The Roman Senate lost its dignity, its honor, its nerve; the Roman Senate likewise delivered its responsibilities and prerogatives into the hands of a line of Caesars and emperors, despots whose crimes, usurpations, and venalities have forever after become synonymous with tyranny and perversion. In the wake of that abdication of responsibility and leadership by the Roman Senate, Roman corruption and venality were enthroned in high places; laziness and indolence were rewarded; emperors were assassinated; citizens were massacred; civil wars were fought to benefit tyrants who were ambitious to secure the throne and to feel against their own flesh the intoxicating caress of the royal purple.

Some of the early symptoms that heralded Rome's decline can be seen in our own nation today. I have watched these come about now over a lifetime of more than seventy-five years, and I fear for my country. I believe it is our duty—as Senators, as Members of the House of Representatives, and as citizens who care, and into whose hands the stewardship for the future has been entrusted—to do all that we can to reverse, or at least arrest, the national decline in our moral and religious values, and in our educational and professional standards, and to reclaim and renurture the basic virtues that made America "the land of heart's desire." (applause)

In particular, I sometimes shudder at the misdirected attacks—perhaps, misinformed attacks—often, attacks from within—aimed at the integrity of Congress itself—attacks that too often advocate the weakening of Congress to the favor of the Executive Branch, most particularly.

How ironic, I sometimes muse, that some Americans—and particularly even those who are elected to serve in Congress—can wax so eloquent about their love for this building and rally to save it and restore it, while at the same time denigrating and slandering the democratic institution whose home this structure is—the Congress, the locus of our national will and the repository of real democracy under our system of checks and balances and separation of powers.

Another way of expressing these same thoughts is to recall that the Capitol building, *per se*, is not the jewel in America's crown. That jewel is the institution that here lives, and breathes, and struggles, and debates, and decides, and chooses, in order that the dreams that first gave inspiration to this great and mighty structure will not succumb to futility and tyranny as they have so often in the course of human history. The preeminent jewel in America's crown is the Congress of the United States—the much maligned Congress of the United States of America—(applause)—that institution that is coronated guardian of the highest aspirations of the American people by the Constitution itself, and the institution designated by none other than the Founding Fathers themselves as executors of the American heritage.

I can think of no words more eloquent by which to communicate my yearning to be understood on this crucial concern than some words from a speech delivered in 1832 by one of the mightiest figures ever to walk these corridors, Daniel Webster.

In his speech on the Centennial Anniversary of George Washington's birthday in 1832, Webster declared:

"Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it.

"If it exhaust our Treasury, future industry may replenish it.

"If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests.

"It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt.

"But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skilful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality.

"Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty."

The Proverb admonishes us to "Remove not the ancient landmark, which thy fathers have set." We meet tonight to celebrate the endurance of one such ancient landmark, the United States Capitol building. Let us continue to revere and practice that system of self-governance bequeathed to us by the Founding Fathers—that system of government to whose practice this building and the institution resident herein are foremostly dedicated.

HISTORICAL SNAPSHOTS: CONGRESS AND THE CAPITOL, 1793–1993

(By Richard A. Baker, Senate Historian)

A snapshot is a photograph taken quickly and informally. This afternoon I wish to offer several historical snapshots of Congress and the Capitol. I have chosen to create these word-pictures in 50-year intervals, beginning with September 1793, the month that witnessed the placement of the Capitol's original cornerstone. We will then turn the pages of our history album, stopping at 1843, 1893, 1943, and concluding with a brief glance at images from our own era.

In September 1793 the nation consisted of 15 states, with a population of 4 million. The national government was still in what can only be described as its experimental stage, held together by the personal magnetism of George Washington. Major constitutional crises lurked not far ahead, waiting to confront the successors to the founding generation.

For the past two-and-a-half years—since 1790—Congress had been quartered in Philadelphia, the nation's temporary seat of government. On Sept. 18, 1793, a Yellow Fever epidemic gripped Philadelphia. Silence enveloped Congress Hall. The House and Senate had adjourned in March and, as the Constitution then specified, would not reconvene until the first Monday in December. Members of Congress generally enjoyed their spacious quarters in the recently constructed Philadelphia Court House—the second capitol under the new constitution. The 106 members of the House of Representatives met in a large first-floor court room, furnished with mahogany desks, black leather arm chairs, and a spectators' gallery that could accommodate 400 visitors. The Senate, traditionally known as the "upper house," occupied a smaller court room on the second floor. More elegantly appointed than the House chamber, the Senate's quarters—with desks for 32 senators and a staff of 6—lacked a gallery. All of its proceedings were to be conducted in secret. In those early days, the Senate was indeed the forgotten body. A Philadelphia newspaper described the setting in the chamber during a "debate" as one of "the most delightful silence, the most beautiful order, gravity and personal dignity of manner." Senators appeared "every morning full-powdered and dressed, as age or fancy might suggest, in the richest material. The very atmosphere of the place," the reporter continued, "seemed to inspire wisdom, mildness, and condescension." Many of the Constitution's framers had expected the Senate merely to serve as a council of revision, making minor adjustments in legislation hammered out in full public view in the noisy and turbulent House chamber one floor below.

Earlier in 1793, the Senate chamber had been the setting for George Washington's second inaugural address. It was certainly the shortest and most curious inaugural address ever delivered. The president, in less than two minutes, simply reminded members that they could deal with any perceived wrongdoing on his part through "constitutional punishment" as well as by the "upbraidings of all who are now witness to this solemn ceremony."

Six months later, on September 18, the president participated in a ceremony that would have far greater significance than the one launching his second administration. Joined by members of the Alexandria Volunteer Artillery and local Masonic lodges, President Washington, himself a 40-year Mason, moved in a grand procession up to the barren promontory known locally as Jenkins Hill where he placed a large engraved silver plate and lowered onto it a plain, cut cornerstone to mark the southeastern corner of the new national capitol building. Then, according to a local press account, "the whole congregation joined in reverential prayer, which was succeeded by Masonic chanting honors and volley from the artillery." Following the ceremonies, the entire crowd retired to feast on a barbecued 500-pound ox and then departed "with joyful hopes of the production of their labor."

On September 18, 1843 the nation consisted of 26 states—twice the original number, with a population of 18 million. Congress had expanded to 223 House members and 52 senators, with a permanent staff of approximately 20.

The Capitol of 1843 reflected the country it served—an orderly, self-contained, seemingly completed structure—but one that stood on the verge of great expansion. (On May 22, 1843, 1,000 easterners had departed from Independence, Missouri to settle the Oregon territory, marking the start of a epochal western migration—a migration that is romantically depicted in Emanuel Leutze's grand House wing mural "Westward the Course of Empire Takes Its Way.")

The Capitol's Senate wing had been largely completed in November 1800 when the government, reluctantly saying good-bye to its more comfortable quarters in Philadelphia, took up residence in the ragged Potomac River wilderness on the outskirts of Georgetown. A House wing opened in 1803 and both structures subsequently underwent major revision, particularly as a consequence of the

1814 conflagration at the hands of invading British troops. By 1826, the east portico and central rotunda, topped with Charles Bulfinch's wooden, copper-sheathed dome, stood ready to receive members and the public alike.

In September 1843, although Congress was not in session, the political climate of that era can only be characterized as tumultuous. The Whig party, less than a decade old and a coalition of anti-Andrew Jackson forces with a predominant representation among the nation's business and commercial classes, had for the first time taken control of the Senate, the House, and the presidency. but all was not well for that party. The nation's first Whig president, William Henry Harrison, had died in April 1841 after only a month in office and his successor, John Tyler, pleased neither Whigs nor Democrats in Congress.

The Senate in March 1843 dramatically expressed its displeasure by decisively rejecting President Tyler's nominee for Secretary of the Treasury—only the second of nine such cabinet rejections in American history. When Tyler showed his own irritation by resubmitting the same nomination within hours of its initial rejection, the Senate said "no" again, by an even larger margin. Enraged, the stubborn Tyler tried a third time. In the Senate even the nominee's most dedicated earlier supporters showed their disgust at the President's arrogant disregard of their constitutional prerogatives by joining the opposition to administer a final crushing defeat.

The Senate of 1843 was a vastly different body than its predecessor of a half-century past. Its chamber had been opened to the public years earlier and had become a grand theater for transfixing oratory and momentous debates about the very nature of our national union. In those years of its so-called "Golden Age," the Senate had emerged to eclipse the House and the presidency as the major forum for shaping solutions to crucial economic and sectional issues.

This was the era of the Senate's "Great Triumvirate"—Webster, Clay, and Calhoun—although in late 1843 all three were temporarily missing from the Senate chamber: Webster was serving as secretary of state, and Clay and Calhoun had just retired from the Senate to organize their respective 1844 presidential campaigns.

On the House side former President John Quincy Adams had become that chamber's loudest voice against the perpetuation of slavery. In 1836, despite his best efforts, a majority in the House had imposed a "gag rule" to suppress debate over anti-slavery petitions, either out of a desire to sustain the nation's precarious political equilibrium or a belief that Congress had no right to deal with the matter. By late 1843, Adams neared success in his campaign to lift the gag rule by arguing that regardless of how one felt about abolishing slavery, catering to the South's sensitivities on the subject eroded basic constitutional protections, such as the right to petition.

Within a year, Samuel Morse would demonstrate his newly developed telegraph on the ground floor of the Senate wing. This invention, together with new processes for printing newspapers, and the perfection of a shorthand reporting system that allowed reporters to capture the verbatim debate of House and Senate members, would provide speedy and accurate coverage of congressional action to citizens throughout the nation.

September 18, 1843 passed without any special celebration on behalf of the Capitol cornerstone's 50th anniversary. As Congress was not in session, members had dispersed around the country, and in the District of Columbia, a natural disaster preoccupied the citizenry. A week of heavy rains and high winds had produced severe flooding on the Potomac, soggy basements, and hundreds of uprooted trees. A real celebration would have to wait another half century.

As those of us over the age of 50 do not need to be reminded, a half-century brings enormous changes. The 50 years between 1843 and 1893 produced virtually a new nation—an industrialized giant that sprawled across the vast land mass from the Atlantic to the Pacific. Eighteen new states joined the 26 in place as of 1843. Infused by a swirling immigrant tide, the nation's population more than tripled, rising from 18 million to 63 million. A tragic civil war claimed 600,000 lives and irrevocably imprinted itself on the face of several generations. For all time, that conflict settled the issue of supremacy between the national and state governments, and it established the Republican party as the principal governing party for most of the half-century to come.

The Capitol reflected this profound change, with the addition of massive new wings, a commanding new dome, and landscaping appropriate to its new-found magnificence. Wars and treaties in the late 1840s brought new territories, which as states would soon send many new members to the already-crowded chambers of the House and Senate.

On July 4, 1851 another significant cornerstone was placed to mark the start of construction of new legislative chambers. On that occasion, an aging Daniel Webster recognizing slavery's grave threats to the nation's survival, proclaimed with shaky optimism,

"* * * that on this day the Union of the United States of America stands firm, that their Constitution still exists unimpaired, and with all its original usefulness and glory; growing every day stronger and stronger in the affections of the great body of the American people, and attracting more and more the admiration of the world. And all here * * * unite in sincere and fervent prayers that this deposit, and the walls and arches, the domes and towers, the columns and entablatures, now to be erected over it, may endure for ever!"

Twelve years later—in December 1863, as the grip of civil war began to ease from the capital city, sculptor Thomas Crawford's majestic 19-and-one-half-foot, seven-ton bronze statue of "Armed Freedom Triumphant in War and Peace" took its place atop Thomas Walter's newly completed cast-iron dome. And in 1874, Congress retained the services of noted landscape architect Frederick Law Olmsted to redesign the Capitol's grounds.

Inside the Capitol, for the quarter century following 1855, the Italian artist Constantino Brumidi along with other talented immigrant artisans decorated the building's walls and ceilings in fresco and oil, wisely ignoring the Washington Art Society's angry criticism of their work as "decorative trash that would not be tolerated in a large bar saloon."

By 1893, however, members complained that the enlarged and recently electrified Capitol offered insufficient space. These complaints came despite the addition, the year before, of Frederick Olmsted's west-front marble terrace honeycombed with new offices. Congress had added those offices to accommodate the burgeoning new House and Senate committees established particularly to justify office space and a combined total of 100 staff for their chairmen.

In September 1893, the nation—facing economic catastrophe—needed cheering up. The previous November the Democratic party had captured the presidency, and both houses of Congress for the first time in a third of a century. No sooner had the new administration of Grover Cleveland taken office, however, than a financial panic struck. Businesses collapsed. Banks called in their loans. Credit dried up. As one writer noted, by late 1893, "ruin and disaster ran riot over the land." President Cleveland called Congress into extraordinary session in August and that Congress was meeting on September 18—a day for optimism to banish despair.

Of all the major anniversaries commemorating the cornerstone placement, that of September 18, 1893 was surely the grandest up to our time. Very early in that sun-drenched morning, a crowd in a cheerful holiday mood began to seek out choice viewing space in the Capitol's east front plaza. The Capitol, like countless others among the city's public and private buildings, stood swathed in red, white, and blue bunting, with American flags resplendently displayed between the grand columns of the east portico.

At 1 p.m., the festivities officially got underway with the pealing of 13 "centennial" bells, mounted across the plaza on the west wall of the partially completed Library of Congress building. At that moment thousands of marchers, organized into four major divisions of a grand parade, picked up the cadence of massed bands and began the festive journey from the White House along Pennsylvania Avenue to Capitol Hill. Among the marchers were President Grover Cleveland, his cabinet, representatives of Congress, the judiciary, state and local governments, and countless civic groups. Cheering onlookers repeatedly mobbed Lawrence Gardner, a portly man of distinguished bearing, who served as general chairman of the day's celebration. These well-intentioned greeters simply mistook Gardner for President Cleveland, at a time before news photographs were available to implant the presidential image in the minds of most Americans.

Despite a traffic jam of carriages backed up on the Capitol's circular drives, the marchers made their way to the East plaza in time for the speeches that begin promptly at 2 p.m. The Senate and House had settled into their places on a large grandstand as Chairman Gardner opened the festivities with this proclamation: "A study of the history of legislative bodies in all lands and times will disclose none the superior of the American Congress, whether in intelligence, patriotism, or in purity of purpose." The fact that this accolade triggered vigorous applause, rather than derisive laughter, tells us a great deal about popular regard for Congress 100 years ago.

President Cleveland pleased the crowd by speaking informally for only five-minutes. The audience was less pleased, however, with the day's principal oration by a long-winded historian. William Wirt Henry, grandson of Revolutionary hero, Patrick Henry spoke for nearly an hour. One press account charitably described Henry's remarks as "lengthy, learned, and ornate." Military bands and a 1,500-member centennial chorus entertained the crowd for the remainder of this memorable day. To ensure that future generations would not forget the centennial, the arrangements committee placed a seven-foot bronze plaque on the cornerstone's presumed site, with the simple inscription, "On the 100th anniversary in the year 1893, in the presence of the Congress, the Executive, and the Judiciary, a vast concourse of the grateful people

of the District of Columbia commemorated this event."

Fifty years later, on September 18, 1943, the country had grown to 48 states, with a population of 133 million. There were 435 representatives—a number permanently fixed in 1911—and 96 senators, with a combined congressional staff of about 1,800.

A visitor to the Capitol's eastern plaza on this cornerstone anniversary date would find no bunting, no specially erected platforms, no bands, and few people. During the darkest days of World War II, as the nation's attention focused on reports of imminent Allied landings on hostile Italian beaches, a Washington correspondent reported that there would be no ceremonies at the Capitol as long as "the very freedom it represents is under attack." Another observed that "Today the Capitol stands as a symbol of freedom to an agonized world." Architect of the Capitol David Lynn promised that as soon as the war emergency passed he would implement plans to excavate the area surrounding the 1793 cornerstone. Then all Americans could make a pilgrimage to this national shrine and see for themselves this venerable relic.

This somber and unheralded anniversary found Congress again meeting in emergency session deliberating on methods for stabilizing the wartime economy and the postwar world. Illinois Representative Everett Dirksen sounded an early call for congressional reform. The 10-year House veteran explained that the public held Congress in low esteem because the national legislature's "fear of doing something for itself as an institution." He continued, "It is a very natural apprehension, for when we do, we are often at the receiving end of a lot of spicy, derogatory comment that has a great deal of reader interest." Dirksen concluded that the only thing wrong with Congress was that it had "failed to equip itself to cope with growing executive power and the bureaucracy." Dirksen's concern would lead to the passage of the Legislative Reorganization Act of 1946, the single most important piece of institutional reform legislation in the history of Congress. This legislation, for the first time, authorized members and committees of Congress to hire staff experts at a level comparable to those available to the executive branch. It provided the structural foundation of the modern Congress that substantiates this recent assessment of a knowledgeable political scientist: "The U.S. Congress is the most independent, powerful, and professionalized legislature in the world."

In the half century since 1943, the nation's population has nearly doubled—from 133 million to more than 250 million. Although the number of senators and representatives has remained virtually constant, Congress as an institution has changed in ways that members of that wartime era could scarcely have imagined. These changes include regular year-round sessions thanks to air conditioning and a vastly expanded federal role in the daily lives of Americans. Also, among the innovations are televised floor proceedings; jet travel that permits and obligates members to return home in mid-session on a weekly basis, while spending less time with congressional colleagues; large, professional staffs numbering up to 20,000; and election campaigns that require candidates to raise astronomical sums. Congress continues to evolve while maintaining features recognizable to the Constitution's framers (who completed their work 206 years ago today).

So, too, has the Capitol continued to evolve. A survey in 1938 revealed that the ceiling supports in the House and Senate chambers had become badly corroded, threatening to drop tons of ceiling and debris onto the heads of hapless legislators. World War II interrupted reconstruction plans, so members convened during the 1940s under supporting steel beams that were likened to "barn rafters." After the war, Congress decided to expand the roof reconstruction project to encompass a major renovation of both chambers.

Completion of Thomas Walter's massive cast iron dome in 1863 opened a 90-year-long debate on extending the east and west fronts to put them in proper proportion to the new dome. Following renovation of the House and Senate chambers in the early 1950s, planning began for a 32-foot extension of the East Front—a project that was completed by 1962. For the West Front, Congress ultimately decided to restore rather than extend the original facade and that project was completed in 1987. Earlier this year the Olmsted terraces were restored, and terrace courtyards were converted to interior meeting space.

Today, on the occasion of its bicentennial, the Capitol stands completed. Or does it? Americans of 1843 and 1893 and 1943 certainly thought the building of their era was fixed for the ages. Yet, as the passage of a few years would demonstrate, great expansion and challenge lay ahead both for the nation and the Capitol that has become its abiding symbol. In 1901, architectural historian Glenn Brown wrote: "Repairs and alterations to the Capitol have been continuously made, and will be so as long as the nation lives and grows. When such alterations cease, the nation will be on the decline." Fred and Suzy Maroon, in their elegant new book entitled *The United States Capitol* offer a more familiar forecast. "It is safe to predict," they write, "that there will be no significant changes to the outward appearance of the Capitol in the future. It has evolved into a magnificent building, satisfying to both the eye and the hearts of its owners, the American people."

As to what the coming half-century holds in store for Congress and the Capitol, only the celebrants of the year 2043 will know for sure.

A PERSPECTIVE ON EXPANDING NATO

Mr. HEFLIN. Mr. President, the world today differs dramatically from what it was only 3 or 4 years ago, when our system of international security was based on the maintenance of a balance of forces between the North Atlantic Alliance and the Warsaw Pact countries. The mutual nuclear deterrence fostered by that balance of power has now been replaced by a process for establishing a new security framework in Europe and around the globe. Nowhere is this embryonic process more in evidence today than in the current dialog among leaders of the North Atlantic Treaty Organization nations.

During the recent annual session of the North Atlantic Assembly in Copenhagen, Denmark, one issue at the top of the crowded agenda was that of expanding the membership of NATO. After the breakup of the Warsaw Pact and the collapse of the Soviet Union, young independent States striving to pursue a policy of nonconfrontation have sprung up on the new political map. Naturally, many of these young nations are seeking to become members of NATO. The question of their admission to NATO was a major focus of the assembly's defense and security committee, and will likely remain at the top of the agenda during the NATO heads-of-state summit in January.

For many of us who lived through World War II, or who may have been born during this period, NATO has always symbolized European security and stability. The collapse of Soviet communism was a modern miracle, but that miraculous event does not mean that heavenly peace has replaced the threat that communism posed for 45 years. With the smashing of the Berlin Wall—a truly breathtaking event whose dimensions few of us have fully grasped—it seems that a Pandora's Box was unintentionally opened up, allowing nationalistic, religious, and ethnic conflicts to bloody the landscape and mar our hopes for a lasting peace, at least in the short term. These conflicts have taught us that peace is more than a matter of simply knocking down a concrete wall, as important symbolically as that was.

As the militarily neutral Swedish Defense Minister said during the assembly, the collapse of the Soviet empire showed that Europe could not remain half free and half unfree. Today, it is just as clear that Europe cannot be only 50 percent peaceful, stable, and affluent. If we cannot ensure stability in an easterly direction, instability will spread westward. The end of the cold war is a turning point for Europe and the world. It is also a turning point for NATO and for the possibilities of its having to take military action.

It is only natural for the question of expanding NATO to be on the minds of leaders as we struggle to make sense of the post-cold-war world and contemplate what NATO's role will be in that world. I must say at the outset, however, that I do not share many of my European counterparts enthusiasm for embracing new NATO members: On the contrary, I am very reluctant to endorse the idea of expanding NATO membership at this time.

What is vital to remember as we consider NATO's role and membership is that it is first and foremost a military alliance. It is not just an American-European United Nations. The signatories to the North Atlantic Treaty are bound militarily to defend one another should a member be attacked by a nonsignatory. There are many possible scenarios which should make us pause long and hard when we think about admitting new members to NATO, but the situation in the former Yugoslavia is probably the most vivid. For example, should the same kind of ethnic and religious battles erupt in the Czech Republic after it became a NATO member, serious security dilemmas would

be posed not only for the alliance, but for the rest of the world.

I believe that before we rush to create new NATO members, we must be more clear about NATO's purpose and agenda in the post-cold-war era. NATO has made some important strides in adapting to the new security environment, but before we start speaking of inviting more nations to join the alliance, we must answer questions like, "Why does NATO exist in the absence of the Soviet Union?" and "What are the new threats to European security?"

In Copenhagen, one of the Russian Parliamentarians present as an observer offered the Defense and Security Committee a Russian perspective on NATO expansion. He suggested that instead of talking about expanding NATO—an alliance specifically created to counter the Soviet military threat—member nations should focus on creating, over time, an inclusive European security structure.

We should indeed be sensitive to the concerns of not only Russia but to the other New Independent States in Eastern Europe and the former Soviet Union who would not be considered ready for NATO membership at this time. Events over the last month are a powerful reminder of how delicate the situation remains in Moscow. We should not rush into any actions which could provoke the Russians and play into the hands of hardliners who still espouse the principle of containing and, where necessary, challenging NATO.

At the same time, we cannot ignore the great interest that a number of our Eastern European friends have in NATO membership. The North Atlantic Cooperation Council provides a forum for NATO to consult with its friends in Poland, Hungary, the Czech Republic, and other countries on security issues. All of our friends in the Council should be assured that NATO will work to strengthen those ties.

On October 20, the United States proposed that the NATO Alliance offer limited military partnerships to virtually any interested European nation, including Russia and the other former Warsaw Pact nations. Under the proposal presented to the allies by Secretary of Defense Les Aspin, partner nations would not be entitled to the automatic security provisions of the NATO treaty. However, NATO would consult with a partner country in the event its territorial integrity is threatened, and the alliance could conceivably take military action to protect that nation.

This proposal appears to be a wise and balanced effort to address concerns over long-term peace and security in post-cold war Europe and those concerns of the Eastern European countries seeking NATO membership. I view this arrangement as a cautious but positive step for both NATO and the new democracies as they seek to define their role in a new and rapidly changing world.

Any true expansion of NATO, however, should contribute to—and must be seen as contributing to—the overall stability and security of the new democracies to NATO's east, while also preserving the security and stability of NATO's current members. I am convinced that at this point in time, an expansion would not meet these minimum requirements.

HERB WHITE RETIRES FROM AUBURN UNIVERSITY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a man who has been around Auburn University as long as the university itself.

The executive director of Auburn University relations, J. Herbert White, is retiring after 33 years of service to Alabama's largest land-grant university. He has seen it develop from a college of some 9,000 students when he started working there in 1960—the same year its name changed from Alabama Polytechnic Institute to Auburn University—to more than 20,000 today.

During this time Herb White has played a significant role in not only the growth of Auburn's enrollment, but in its recognition as a great comprehensive university as well.

Since his senior year when he was editor of the Plainsman, Auburn's student newspaper, Herb White has held many positions at the university.

After graduating from Auburn in 1955, Herb returned to his beloved alma mater 5 years later when he was hired by the Auburn Alumni Association as a field secretary and was instrumental in the university's first capital gifts campaign.

In 1965, Dr. Harry Philpott, then the president of Auburn, named Herb White the director of university relations and AU's chief government relations representative at the Alabama State Legislature in Montgomery.

During his career with university relations, Auburn's annual appropriation from the State grew more than tenfold—to over $153 million.

Herb White and others are credited with forming the very successful grassroots lobbying program known as the County Auburn Committees. These groups of Auburn alumni in each of Alabama's 67 counties study the university's legislative program and then lobby their State legislators to support it.

University relations too has increased in size and productivity with Herb White at the helm. The office has received numerous awards, including the Silver Anvil Award from the Public Relations Society of America for its role in working with the alumni and passing a 1-cent sales tax for education in Alabama.

If you were to ask Herb White what is Auburn University's recipe for success, I am sure he would say "leadership." In a recent edition of the AU Report, a newspaper for the faculty and staff of Auburn University, Herb White said the university has been fortunate in selecting its leaders. And he should know, for during his tenure at Auburn he has served in the administrations of six university presidents.

"From Ralph B. Drauhon's leadership in handling integration of the university in 1964 to the problems of today, Auburn has always had strong leaders," he told the AU Report.

"The faculty was greatly strengthened in the Philpott administration and that process has continued," he said. "The recent administrations of Presidents Bailey, Martin, and now Dr. Muse have made it very rewarding to work at the university."

And although he is much too modest to admit, Herb White has been an important ingredient in that successful formula at Auburn. The countless hours he has worked with the media, the legislature, Congress, and others to make Auburn a great university is something that is deeply appreciated by those who consider themselves part of the very large and growing Auburn family of students, alumni, staff, and fans.

I congratulate Herb White for the many successes he has had through the years at Auburn and I wish him, his loving wife, Freda, and his lovely daughters and their families of whom he is so proud, all the best in the long and many years that lay ahead.

TOE THE LINE, MR. PRESIDENT

Mr. HELMS. Mr. President, President Clinton will meet with the President of China, Jiang Zemin, in Seattle tomorrow at the Asia Pacific economic cooperation forum summit. The plan is for the President to discuss proliferation, trade and human rights issues.

I understand that the administration may announce a package deal with China at the end of this meeting. Reports suggest that the administration will repeal the sanctions it imposed on China 3 months ago after the Communist Chinese were caught red-handed—no pun intended—transferring missile-related equipment to Pakistan. If this announcement is not made at the APEC summit, it is likely to be forthcoming after Congress adjourns for the year.

Mr. President, to demonstrate the effectiveness of this policy of imposing and then revoking sanctions on China, a recent example may be instructive: The previous administration, whose failed China policy I never agreed with, advocated a relationship of engagement with the communist Chinese. Administration officials wrung their hands in June 1991 when forced by Congress—and the laws of the United

States—to impose sanctions on the Communist Chinese for transferring missile technology to rogue regimes. The officials declared that it impeded opportunities to coax the Chinese into better behavior.

With much ado, 8 months later, that administration lifted the sanctions with the promise that the Chinese would abide by their commitments to nonproliferation. Where did that get us? Less than a year later, the Chinese were caught transferring the very high-technology components that they had promised months earlier not to sell.

Mr. President, I was heartened by the hard-line stance Candidate Clinton took toward China during his campaign along with his seeming dedication to nonproliferation. His now infamous characterization of the previous administration's policy of "coddling the dictator of Beijing" was one with which many Americans agreed. And, to my surprise, it appeared, albeit fleetingly that his campaign rhetoric had become a reality in August when he imposed sanctions on the Chinese.

But this reality evaporated in September when the Clinton administration ushered in a new era of closer, more open relations with China—a new policy of engagement. And to nobody's surprise, supporters of this policy of engagement are wringing their hands over these sanctions. It's deja vu all over again.

The Chinese break their promises to us, we impose sanctions and within a few months we revoke them. And for what—the opportunity to chat with Chinese leaders, a promise from the Chinese that they will not misbehave in the near future? All of this in light of reports that the Chinese are in the position to proliferate even more.

I disagreed with the revocation of sanctions under the last administration and I disagree with it now. Until the Chinese sign up and adhere to their commitments to nonproliferation, this administration should continue to toe a tough line—and that tough line must include penalties for wrongful acts.

Mr. President, I hope that the President will reconsider his actions when he meets with the Chinese President tomorrow and in his future formulation of United States-China policy.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated 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 task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,462,811,124,306.37 as of the close of business yesterday, November 17. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,374.56.

REGARDING THE SITUATION IN KASHMIR

Mr. WARNER. Mr. President, I rise today to bring attention to the continuing violence in the Indian State of Kashmir, which is located on the India-Pakistan border.

Recently, we have seen that violence flame up with the siege by Indian troops of the Hazratbal Mosque, the holiest mosque in Kashmir. It is my understanding that the siege recently ended; however, Indian troops are still holding several separatist leaders that were taken into custody at the start of the siege.

This incident is an example of the type of violence that has been taking place in Kashmir since 1989. Numerous human rights violations have also been frequently cited. All such violence must cease, including certain activities allegedly carried out by Moslem separatists.

The escalation of tensions in Kashmir has in turn created a deterioration in relations between Pakistan and India. With both India and Pakistan either possessing or being close to obtaining nuclear weapons, it is vital that we prevent a worsening of that already unstable relationship.

Therefore, Mr. President, I call on India to use restraint in its dealings in Kashmir. Nonviolent methods must be utilized by both sides to settle this dispute and calm tensions in the region.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, I want to mention to my colleagues that I have been working on this problem of television violence and the problem that entertainment violence glorifies violence in our society. The evidence is overwhelming on that.

I wrote a letter to the television stations and to a number of the cable stations around the Nation asking them: Will you please, one time a day, put a warning on saying you may harm yourself watching too much violence on television—or some kind of warning. It was a little like asking the cigarette manufacturers to put a label on, and I did not expect any response—or modest, if any.

But four stations have volunteered to do this. I want to mention them: WCEE-TV, Mt. Vernon, IL; WPSD-TV, Paducah, KY; WFMZ-TV in Allentown, PA, and GH Cable in Columbia, MS. I commend those four stations, and I hope there may be others that will follow.

ON THE DEATH OF ROBERT F. WAGNER, JR.

Mr. MOYNIHAN. Mr. President, the morning papers report a telephone conversation between President Clinton and the mayor-elect of New York City, Rudolph W. Giuliani, in which the President mentioned that they shared a number of mutual friends, among them, Robert F. Wagner, Jr. It fell to Mr. Giuliani to inform the President that Bob had died just this past Monday.

It would have been a blow to the President, as it was to Mr. Giuliani, as it was to me and so many of Bob Wagner's friends and admirers across the Nation, but most especially in his city of New York.

It happens I last saw him a week ago today. In the Chrysler Building, that magnificent art deco artifact that so defines New York. A practical work of art. He accompanied Mr. Giuliani, who came round to talk about the city whose leadership he will now assume. Rather, I should say, Bob arrived 20 minutes after Mr. Giuliani, late as usual, filled with unfinished thoughts from his last meeting, rushing into the details of the one just commenced. I told the mayor-elect of President Clinton's determination to keep his election season pledge to New York City to help with the recreation of the old Pennsylvania Station in what is now the Farley Post Office Building. The mayor-elect was obviously pleased and interested, but Bob Wagner was, well, thrilled. He knew what we had lost when the old station was torn down; he sensed what we might gain if it were somehow recovered.

I later told friends that Bob had fair-to-tapdanced on the ceiling at the prospect of getting something glorious going in New York City again.

On that occasion, in a corner office on the 41st floor of the Chrysler Building, with the city shining all about us, we talked a bit about politics. I had worked as a volunteer in his father's first campaign for mayor in 1953. It was my start in politics. I recalled the day after the election when I got a telephone call, far above my unpaid level, from the producer of a then-famous new television show called "I've Got A Secret." The idea was to get Bob and his brother Duncan on stage with the secret that their father had just been elected mayor of New York City. I sensibly told the producer I would call back and let the matter end there. But I was then outside the room where the mayor-elect, Carmine de Sapio, the head of Tammany Hall, and Sid Baron, the publicist, made the decision that

with the election over and city hall in prospect, they would drop the "Jr." from the mayor-elect's name. I related this last Thursday and was tickled when Bob told me he had never known how exactly that had happened. And well that it did, for otherwise he would have had to go through life as Robert F. Wagner III, which would certainly not have done.

He, of course, devoted his life to the city as his father had, and his father before him. He was one of the last New Yorkers in public life who could remember that if we have been an idea, also, and possibly more importantly, we have been a place, a place of splendid artifact.

First the canal. The tall ships. Then the tall buildings. The bridge. The statute. The park. The subway. Yet taller buildings, greater bridges. Vast railroad terminals built on the example of Roman emperors. That energy has seeped out of our civilization, something Bob Wagner understood and lamented. He evidently hoped to become the new director of city planning, a quintessential New York idea of the turn of the century, now lost like some magnificent Mayan ruin behind the suffocating tendrils of ULURP. We have, for example, been trying to build or rather, rebuild, a trolley car across 42d Street for 15 years now. When his father was borough president, it would have taken 2 years at most. When his grandfather was a State senator and Charles Francis Murphy, the Democratic country leader, it would have been brought off in 6 months. Oh for the days when Croker built the IRT as a favor to a friend.

Which is only to say that Bob understood this aspect of the city as an expression of the creativeness of its people. People from all about. His grandfather was born in the Province of Hessen-Nassau in Germany; his grandmother was Irish. His beautiful mother Susan was what was then called Old American. In his own work Bob concentrated most on the needs of New Americans in the city, and he did what he could do, which is more than all but a very few persons of this generation. We will never know the loss we suffered when the bureaucratic idiocy of the State education commissioner decided that a public man of unmatched intelligence and range did not have enough credits to be schools chancellor. Earlier in 1977, he had run for the nomination as borough president of Manhattan. I supported him in the primary, which he narrowly lost, after that he returned to public service in the administration of Mayor Koch.

To declare my interests, as the lawyers say, I would have supported him anyway. But there was a special bond between us. When "Beyond the Melting Pot" appeared in 1963, it received an especially warm and welcoming review in a Harvard undergraduate journal from—who else—Robert F. Wagner, Jr.

I do not want to make him out to be too much a New Yorker. Cities everywhere called him, engaged him. He died in San Antonio, working on a book on urban America with Julia Vitullo-Martin.

I would ask his loving stepmother, Phyliss Cerf Wagner, to accept our homage even as we share her grief.

Mr. President, I ask unanimous consent that an editorial on Robert F. Wagner, Jr., that appeared in yesterday's Daily News be printed in the RECORD at this point.

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

A SON OF NEW YORK

Robert F. Wagner, Jr. never matched the elective successes of his father the mayor or his grandfather the senator. No matter. Bobby Wagner, as he was known to a legion of friends, served the city he loved in an extraordinary variety of posts—city councilman, chairman of the City Planning Commission, president of the Health and Hospitals Corp., deputy mayor, president of the Board of Education. And he served always with grace, skill and intelligence.

Among the thousands who grieve at Wagner's untimely death is Mayor-elect Rudolph Giuliani, who owed him a particular debt. When Wagner endorsed Giuliani last month, he made what was probably the most effective campaign commercial of the political season. Wagner simply looked into the camera with the same half-pained, old-beyond-his-49-years expression he usually wore and told how he had decided that New York needed better leadership. It worked in part because many New Yorkers associated him with his father and with Ed Koch. But it worked most of all because the honesty and conviction that characterized the man shone through.

Giuliani says he planned on making Wagner a deputy mayor. He would have been invaluable, not only for his great experience, but for the qualities Giuliani needs most—tolerance, perspective and, most of all, simple, humble kindness.

FLOOD UPDATE

Mr. BOND. Mr. President, in July of this year the country witnessed one of the worst floods in history. The President and Congress reacted quickly and passed the Emergency Supplemental Appropriations for Relief From the Major, Widespread Flooding in the Midwest Act of 1993.

This legislation provided the initial Federal assistance to people, communities, and businesses ravaged by the extensive flooding in the Midwest. More help may be needed to finish the job next year. From my experience with floods as Governor, I can tell you that flood recoveries are measured in months and years, not days. The Federal Government has a responsibility to help flood victims at the end of this recovery as it did at the beginning.

I believe that the strongest element of our Federal relief effort has been to let the people who have suffered through this tragedy make the choices about the recovery. There is a temptation in Washington to make decisions here about how people should live their lives. It's an elite temptation to say subtlely, and sometimes not so subtlely, that we in Washington know what's best for you. While Mother Nature was the Midwest's foe in the disaster, that elite Washington attitude is our foe during the recovery.

Choices about whether people should repair their levees, turn their lands into new wetlands, sell their lands to the Government, or move back into their homes belong to the families and communities that have suffered. I do not believe that I should make that decision for them, nor do I believe that some bureaucrat, environmentalist, or committee chairman should make it either.

No Missouri flood victim will profit from flood pork. Forty-seven people lost their lives and 55,000 families had their homes damaged. All total, our State suffered nearly $15 billion in economic losses. Federal assistance will not come close to compensating flood victims for their actual damages, let alone their suffering. People who call this humanitarian aid pork should be ashamed. Frankly, that's an argument which only people sitting high and dry in Washington or behind 30-foot-high, multimillion-dollar flood protection systems would so cavalierly make.

There is no single answer nor approach that is right for everyone along the river. Each family and community has its own unique situation and must make its own choices about its future. Policymakers or special interest groups in Washington should not try to use these families' personal tragedies as a way to further their political agendas. The disaster legislation Congress passed gave people many options for their future and we should continue that approach.

Buyouts: Helping communities along the river buyout flood-prone property would give families the choice of moving out of the flood plain. On November 15, the House of Representatives passed the Hazard Mitigation and Flood Damage Reduction Act of 1993. This vital buyout legislation must be passed in one form or another before Congress concludes this year.

I will be cosponsoring the buyout legislation offered by Senator HARKIN in consultation with Senator BAUCUS. I have talked with Chairman BAUCUS and have urged him and the administration to take care of their concerns about the House-passed buyout bill. We are working toward legislation that can be passed by Congress in the next few days and enacted quickly.

The victims of the widespread flooding in the Midwest need this option now, not this spring. Towns are trying to get their citizens back on their feet so they can become a productive part of the community again. For that to

happen, many towns need this Federal assistance to get families, businesses, and homes out of harm's way. I appreciate the effort that the chairman of the Environment and Public Works Committee is making to enact this legislation before we adjourn for the year.

Wetlands: Turning flood-damaged lands into new wetlands should be another voluntary choice that Midwesterners have. The Wetlands Reserve Program is an essential option for the landowners in the Midwest who suffered from the flood. However, like the Hazard Mitigation Program, the Wetlands Reserve Program needs some immediate attention.

The Missouri SCS estimates that people with up to 50,000 acres in the Missouri River flood plain are interested in the Wetlands Reserve Program. Unfortunately, there is only enough money to pay for one-tenth of the land that could be enrolled in this program.

I urge both the chairman of the Agriculture Committee and the administration to look into the Wetlands Reserve Program so that the other 40,000 acres of land in the flood plain in Missouri will have the option to participate in this program. They will have my full support.

Levees: People should have the choice to participate in the Federal Levee Program and receive help in rebuilding their flood protection. Unfortunately, that choice is now being denied them. After assuring many flood-ravaged Missouri communities that it would assist them with levee rebuilding, the corps did a complete reversal on September 28. Under orders from Washington, the corps now refused to help communities that it had earlier pledged to assist. Small towns on the river like Orrick and Hardin that had been devastated by flooding have been left with nowhere to turn for help.

I want the corps to allow levees that are sponsored by communities and other public organizations to enter the Federal Levee Program and get rebuilding assistance. The public sponsors of levees entering the Federal program would be required to meet the corps' high standards for levees and abide fully by the program's requirements. Only publicly sponsored levees, not private levees, could participate and get Federal rebuilding assistance under my approach.

If the Federal Government does nothing to help repair these levees, then people in the Midwest will continue to suffer flood damages, costing the Government more in lost tax revenues, economic damages, and disaster assistance, until they are protected. It would also waste billions of dollars already invested in these communities and cause untold suffering.

If the Federal Government creates a new flood protection system, it would easily cost billions of tax dollars. We would need to buy out miles and miles of land, unless the environmentalists suggest that we just seize people's land. Then a new system of levees and wetlands would have to be constructed from scratch.

Simple common sense dictates that repairing our damaged levees is the most cost-effective way to protect people from flooding. Using information from the corps, I estimate that up to 482 publicly sponsored levees would enter the Federal program if they could at an average cost of $218,000 per levee. The total Federal cost could amount to $105 million. In short, we can either spend some tax dollars now to repair levees, or a lot now to create a new system, or a whole bunch down the road as the price of doing nothing.

I have discussed a compromise with the administration on levee repairs that would limit cost to taxpayers and protect the integrity of the Levee Rehabilitation Assistance Program. It would cap the cost of repairs on our damaged levees at $150 million and would set up a 75 percent Federal, 25 percent local cost share, instead of the normal 80–20 cost share. I believe they are negotiating in good faith and appreciate their willingness to work this problem out.

Since this program was put in place by Federal regulations in 1986 and newly interpreted by the administration in 1993, it can be changed by the administration with a stroke of the pen. I have asked them to do that. I trust the administration will do the right thing by changing the policy back to where it was this summer and helping the Midwest restore our flood protection.

Flood insurance: The Federal Government has a responsibility to help Americans who are the victims of a major natural disaster, whether they live in California, Florida, or Missouri. However, the Federal Government cannot and should not take full responsibility for disaster recovery or preparation. People who live in areas that are the most vulnerable to natural disasters also have a responsibility to prepare for a natural emergency. They must take personal responsibility for living and working in an area vulnerable to a disaster.

The recent flood has given this personal responsibility new meaning in the Midwest. Missourians who live in the flood plain should help protect themselves with flood insurance. We should take advantage of the unique protection offered by the National Flood Insurance Program [NFIP].

Unfortunately, Missourians simply are not insuring against the risk of flood as we should. The Federal Emergency Management Agency [FEMA] tells me that Missouri has fewer than 14,890 flood insurance policies, while Texas and Louisiana have over 200,000 active policies each. Of the 169,000 structures in communities where flood insurance can be purchased in our State, only 15,210 are covered by flood insurance.

Many of the homes damaged in the great flood of 1993 were without flood insurance. It is too late to insure these homes for that flood, but I want to stress that we need to reform the National Flood Insurance Program to insure these homes and other uninsured homes against the future risk of flooding. It is also critical to place the program on a sound financial footing, because there is little question that the National Flood Insurance Program is massively exposed. Bipartisan flood insurance reform should increase participation in the NFIP to protect people and insure the soundness of the fund to protect taxpayers.

I say this today because I am frustrated. Flood insurance reform legislation has been introduced on several occasions over the last several congresses and the needed reforms have not been enacted. Missouri and other States have suffered because the National Flood Insurance Program has not done its job in encouraging participation. Until Congress enacts meaningful and directed legislation, the National Flood Insurance Program will continue to fail and families and homes will continue to suffer from this failure.

The Banking Committee during this session began consideration of S. 1405, the National Flood Insurance Reform Act of 1993. While S. 1405 has some flaws, it also has many sound provisions which can provide a base for needed reforms to the National Flood Insurance Program. In particular, S. 1405 would provide stricter requirements to ensure the placement of insurance on properties in flood-prone areas; it would increase flood insurance coverage amounts; it would establish a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria; and it would establish a new program for mitigation assistance. These are important reforms which I strongly support.

This Nation can ill afford to let flood insurance reform slip away in this Congress. Thus I will certainly join with other Senators interested in reforming the flood insurance program to see that the goals of an affordable, locally directed, and actuarially sound flood insurance program are enacted. I hope we can reach some agreement to move a meaningful reform package as soon as possible. Senators should not allow the search for the perfect to be the enemy of the good.

Those who choose to live and work in the flood plain have a responsibility to themselves, their families, and the taxpayers to insure against the possibility of flooding. And those who work here should help reform the program so that

it will effectively protect the taxpayers.

I thank Senators for their willingness to help Midwesterners recover from this tragedy. There is still much to be done, but we have gone far in a short time. Midwesterners need choices for our families and communities, and in most cases, that's what we have helped them have.

STATEMENT ON THE NOMINATION OF CARL KIRKPATRICK

Mr. SASSER. Mr. President, I am very pleased that the Senate was able to approve last night the nomination of Carl Kirkpatrick as U.S. attorney for eastern Tennessee.

I was honored to nominate Carl Kirkpatrick for this position and I am confident he will be an outstanding U.S. attorney. He has already shown his potential during his distinguished service as a district attorney general in Sullivan County, TN. He was elected to that office in 1966 and swiftly reduced the backlog of over 300 cases that he faced.

Mr. Kirkpatrick is widely respected in our State as an effective prosecutor. Just to cite one example, in 1990, Carl Kirkpatrick secured convictions in 90 percent of the cases he tried. That's how you deter crime, Mr. President—effective prosecution.

Carl Kirkpatrick is a native of Kingsport and received his undergraduate and law degrees from Vanderbilt University. He has held all offices in the Tennessee District Attorneys General Conference. While he was president, he wrote and was instrumental in passing legislation to create an office of executive secretary of the Attorneys General Conference. Also during his tenure as president, he conducted the first annual statewide 3-day training session for district attorneys and their staffs.

Carl Kirkpatrick has been an instructor in numerous local police training seminars and a great lecturer at the Tennessee Bureau of Investigation academy, as well as East Tennessee State University. He has also taught criminal law and procedure at Virginia Intermont College for the past 3 years.

Mr. Kirkpatrick was instrumental in creating the Sullivan County Drug Education Council, which provided information services to the high schools in Sullivan County for several years. The council was so successful that it was taken over by, and is now part of, the school system.

Among many other activities, he is a member of the State Victims of Crime Act Policy Advisory Committee, the Governor's Drug-Free Tennessee Advisory Committee, and the Tennessee Child Abuse Advisory Committee. He has also been active in his community, receiving the American Legion Distinguished Service Award and the Kingsport Times News Award for Community Achievement.

Mr. President, I have known Carl Kirkpatrick for many years. He has the experience and temperament needed for this important position and I am confident he will be an outstanding U.S. attorney.

THE MEDICARE DATA BANK PENALTIES—S. 1668

Mr. LIEBERMAN. Mr. President, I thank the chairman for agreeing to discuss the Medicare/Medicaid data bank. In 6 weeks, small and large businesses across America must begin keeping detailed records on individuals for whom they provide health coverage—including employees, spouses, and dependents—and the period of coverage for each individual. This is a daunting, new paperwork burden for employers. And each employer will be subject to penalties of $100 per employee if they do not submit the proper forms for each and every person covered when the time comes to report in February 1995. Despite the fact that employers must begin keeping these records in just 6 weeks, most of them will know nothing about what to collect or how to submit it because the Health Care Financing Administration [HCFA] has done nothing to notify them of this liability, or tell them how to comply. HCFA has issued no guidance on what or how to file, and they have routinely rejected requests from the business community to meet and discuss the requirements.

It is simply a matter of fairness. It is unconscionable to impose penalties on business for not collecting information when we haven't told them what to collect or how to submit it. If HCFA can't issue final guidance to employers before January 1, penalties should be waived.

Mr. MOYNIHAN. I thank the Senator for raising this most important point. He is absolutely right that it is unfair to penalize businesses when we haven't advised them of their responsibilities. It was never the intent of the Finance Committee to put businesses in that kind of catch-22. If we discover that HCFA is penalizing businesses for not collecting or submitting information on employees and their families when HCFA has not given them instructions on how to file this information and has not given them appropriate time to respond, you can be sure that we will move quickly and firmly to address the problem, including the consideration of any legislation, if necessary.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the amendments to the rules of the Committee on Foreign Relations.

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

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted November 18, 1993)

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) *Advice and Consent" Clauses.*—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and

all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than three subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) *Minority Request.*—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) *Public Announcement.*—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) *Staff Attendance.*—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings will be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee on subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on

any matter or measure pending before the Committee.

(b) *Presentation.*—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to justify in person.

(c) *Filing of Statements.*—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) *Expenses.*—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the Committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel.

Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee.

When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) *Domestic Travel.*—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

"(d) Personal Representatives of the Member (PRM).—For the purposes of Rule 11 as regards staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each Member of the Committee may designate one personal staff member as the "Personal Representative of the Member."

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) *Responsibilities.*—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate

which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) *Amendment.*—These Rules may be modified, amended, or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 yours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.

INDEPENDENT COUNSEL INVESTIGATION BY JUDGE LAWRENCE WALSH

Mr. LEVIN. Mr. President, earlier today the Senate passed by a large majority of 76–21 the bill to reauthorize the independent counsel law. During the debate on that bill yesterday afternoon and evening and earlier today, there was criticism of the work done by independent counsel Lawrence Walsh in the Iran-Contra matter. Senator COHEN and I responded to that criticism in part during our debate on the various amendments to the bill, but I would like to take a few minutes to complete the record on this particular issue.

Mr. Walsh has been described by his opponents as someone who "has given the independent counsel statute a bad name", as conducting a "witch hunt", as operating with political motivations and performing bad lawyering, and "having a record so lackluster that it would make a junior assistant D.A. blush".

Let's look at the facts.

First, who is Judge Walsh? He's a life-long Republican, the former President of the American Bar Association, a former prosecutor, a former diplomat, a former Deputy Attorney General, and a former judge. He was appointed by President Eisenhower to the Federal bench in 1954 and by President Nixon in 1969 to be an ambassador with the United States delegation to the Vietnam peace conference in Paris. His professional credentials are above reproach.

Second, what was the Iran-Contra investigation all about? It was about the White House selling weapons to a terrorist nation, trading arms for hostages, supporting a civil war despite a Congressional ban on doing so, and lying about its actions to Congress and the American people. It was about issues that are fundamental to the underpinnings of our democratic Government.

Third, what did Judge Walsh do as an independent counsel? He brought 14 indictments resulting in 11 convictions. There were no acquittals. One case was dismissed because the Justice Department refused to release classified materials; two defendants were given pardons just as their trials were about to begin. Two of the convictions were overturned on appeal because of the congressional grant of immunity.

The indictment of Caspar Weinberger who received one of the pardons has borne the brunt of particularly strong criticism. But let's look at the basis for bringing that indictment.

Secretary of Defense Weinberger was smack dab in the middle of the issues in Iran-Contra. He was deeply involved in the White House debate on selling arms to Iran and on the question of trading arms for hostages. He gave the right advice—that these were wrongheaded and potentially criminal activities—but when the White House went ahead anyway, there is a great amount of evidence that shows that he was a team player in covering up the White House role.

Despite repeated requests from the Senate and House Iran-Contra Committees and later requests of Judge Walsh's independent counsel staff, Secretary Weinberger stated that he had no written notes or jottings of the events involved in the investigation, beyond those he had already turned over. What he had not turned over were the 1,700 pages of detailed notes he made on a daily basis about the events of his day as Secretary of Defense.

Weinberger specifically told the independent counsel staff and a special agent of the FBI that it was misleading to infer that he had a habit of taking notes throughout his 7 years as Secretary of Defense because that was not the case. He repeatedly told the independent counsel's staff that he did not take notes—he didn't take notes of phone conversations, he didn't take notes or make a record of meetings he had attended, and that from 1981 to 1982 on he rarely took notes, period. When confronted by independent counsel staff that someone whom Weinberger would consider credible had alleged that Weinberger had withheld some of his notes, Weinberger said that was not true.

When asked by the Iran-Contra Committee, "Do you ever take notes that are not dictated or make jottings when you get back (from meetings)?", Weinberger replied: "Yes, occasionally, but comparatively rarely. I don't know we kept those in any formal way. * * * Occasionally take a few notes but not really very often."

In fact, Weinberger took notes every day, including weekends and Christmas, in pencil on 5 by 7 pads of paper. He had done so for more than 10 years. The notes are a very detailed account of how his time was spent, commonly one page for Sundays and up to 3 or 4, even 20 pages, on workdays. He kept the pads in his desk at the Pentagon and when the drawer was full of completed pads, he would clip the pads together and store them in a bedroom, adjacent to his Pentagon office. Independent Counsel Walsh's staff estimates that between 75–85 percent of these notes involved business and the rest were personal.

The independent counsel staff discovered these notes only after the congressional investigation had been completed and after approximately 5 years of the independent counsel investigation had transpired, and then they were discovered not because Weinberger told the independent counsel office about them, but because the independent counsel staff got a lead that these notes existed and confronted him with that fact.

The notes show that although Weinberger told Congress he didn't have any knowledge about the transfer of Hawk missiles from Israel to Iran in 1985, there were four detailed entries in his diary about the transfer. I ask that Weinberger's statement and the diary entries on the Hawk missiles be put in the RECORD at this time.

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

WEINBERGER STATEMENT

July 31, 1987. Weinberger testified before House/Senate Iran-Contra Committee:

Q. The committee has also received testimony that on that weekend of November 23 and November 24 [1985], there was a shipment of 18 HAWK missiles from Israel to Iran * * * Let me just ask you: Did you have any knowledge that that transfer was to take place?

A. No, I did not.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

November 9, 1985: "Bud McFarline * * * wants to start 'negot.' exploration with Iranians (+ Israelis) to give Iranians weapons for our hostages—I objected—we'll talk later on secure."

November 10, 1985: "Bud McFarlane * * * negotiations are with 3 Iranian dissidents who say they want to overthrow government. We'll demand release of all hostages. Then we might give them—thru Israelis—Hawks but no Phoenix."

November 19, 1985: "Bud McFarlane fm Geneva—update [summit] meetings—all OK so far—Also wants us to try to get 500 Hawks for sale to Israel to pass on to Iran for release of 5 hostages Thurs."

"Colin Powell in office re data on Hawks—can't be given to Israel or Iran w/o Cong. notification,—breaking them up into several packages of 28 Hawks to keep each package under $14 million is a clear violation"

November 20, 1985: "Told him [McFarlane] we shouldn't pay Iranian anything—he said President has decided to do it thru Israelis."

"Bud McFarlane fm Geneva * * * Israelis will sell 120 Hawks, older models to Iranians—Friday [hostage] release * * * Called Colin Powell—re above."

Mr. LEVIN. Weinberger also told Congress that he didn't have any memory of the Saudis providing funds to the Contras. His notes show two specific references to his direct knowledge of this matter. I ask that Weinberger's statement and the diary entries on Saudia Arabia be put in the RECORD at this time.

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

WEINBERGER STATEMENT

June 17, 1987. Testimony before House Iran-Contra Committee.

Q. Do you recall learning at some point that the Saudis or some people connected with the Saudis provided funds for the contras?

A. No. I don't have any memory of any contra funding or of anything connected with the Saudis that I can remember now.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

March 13, 1985:

"Jack Vessey in office alone—after meeting [with others]—Bandar [Ambassador of Saudia Arabia] is giving $25 million to Contras—so all we need is non-lethal aid

Called Bud McFarlane—out; l.w. [left word]

Called Bud McFarlane—passed on to him Jack Vessey's report that Bandar is giving $25 million to Contras . . .

March 14, 1985: Weinberger diary notes:

Called Bud McFarlane—No further news on Saudis gifts to Contras

Also on March 15, 1985. CIA Deputy Director McMahon record of meeting with Weinberger, Deputy Secretary of Defense William Howard Taft IV, and CIA Director Casey:

"Secretary [Weinberger] stated that he had heard that Bandar, Ambassador of Saudi Arabia, had earmarked $25 million for the Contras, in $5 million increments."

Mr. LEVIN. These inconsistencies and the failure of Weinberger to turn over his notes despite direct congressional and independent counsel requests and his denial that he had any such notes formed the basis of Judge Walsh's indictment.

Mr. President, in reviewing these facts, I think the decision of Judge Walsh to indict is well within the parameters of prosecutorial discretion.

I'd like to address a number of other specific criticisms of Judge Walsh as well and I'll go through them one at a time.

ALLEGATIONS CONCERNING WALSH'S IRAN-CONTRA INQUIRY

First, Walsh's actions, particularly the indictment of Caspar Weinberger, were politically motivated.

Walsh is a life-long Republican, a former Federal judge, former head of the American Bar Association, and a respected professional who was chosen to serve by the Special Court. There is no evidence of partisanship in his background or selection.

The charge of politicization arose mainly from the indictment of former Defense Secretary Weinberger. In fact, had Walsh been after Weinberger for political reasons, he would have focused on him much earlier in the process. The reason Walsh didn't pursue the issue of Weinberger's notes sooner was because he was not considered a likely target.

The heart of Walsh's case against Weinberger is that Weinberger did not produce the voluminous notes he had when they were requested by Congress and by the IC, and that he wrongfully denied their existence. The fact that the notes were not acknowledged or produced—while President Reagan and Secretary Schultz produced theirs—cannot be denied.

The timing of the second Weinberger indictment on October 30, 1992—a few days before the Presidential election—was the result of decisions made by the court, not a calculated maneuver on Walsh's part. The first count in the first indictment was dismissed on September 29, 1992, already well into the election season. At an October 22 status call, the court refused an IC to postpone a November 2 deadline for production of documents in the case, and defense counsel asked for the supplemental indictment "as soon as we can get it."

Second, Walsh and his staff lacked prosecutorial experience.

Walsh himself had prosecutorial experience, as did much of his staff.

Third, the Walsh inquiry lasted too long and cost too much.

The length and cost of cases depends on their complexity, whether they are handled by an IC or a career prosecutor. Iran-Contra was a very complex case that involved a large number of people, several foreign countries, and many classified documents. It's natural that it has taken a long time.

Iran-Contra is comparable to other complex cases handled by the Justice Department—like Abscam and Ill Wind—in terms of time and costs.

Fourth, Walsh delegated too much to his assistants.

The record shows that Walsh was involved in all the major decisions. Given the complexity of the inquiry, some delegation was necessary.

Fifth, Walsh and his staff were careless with classified material and made unauthorized disclosures.

A huge volume of classified documents were involved in Iran-Contra, and Walsh's office took its obligation to safeguard them seriously. They admit to a few inadvertent lapses, but their overall security record is good. Walsh's office actually uncovered security lapses at other agencies more significant than the ones they committed.

Press charges about security breaches by Walsh's office have been exaggerated:

Walsh did not personally lose classified documents through negligence at an airport in California on his way back to the District of Columbia;

Walsh's office did not disclose classified documents as "exhibits" to its court filings.

Sixth, Walsh and his staff interviewed some witnesses excessively, up to 20 times.

This charge has been made by Weinberger's attorney. James Brosnahan, the prosecutor who joined Walsh's team when Craig Gillen stepped aside, flatly denies that it happened.

Seventh, some of the counts Walsh brought against Weinberger would never have been brought by a career prosecutor, especially (i) making a false statement on a form 302, and (ii) lying when he said "I don't remember."

While such charges may not be common, they are not unprecedented and some prosecutors have told us that they are not "out of the mainstream."

It's a common defense counsel tactic to charge the prosecutors are abusing their discretion.

Eighth, Walsh tried to coerce false testimony from Weinberger during the preindictment phase of the case.

The record suggests that all that went on was the usual negotiation process. Potential defendants are supposed to be persuaded to plead guilty by the strength of the prosecutor's case, and defendants are often pressured into testifying against others.

Ninth, Walsh tried to evade taxes in the District of Columbia and New York.

This allegation was included in a Wall Street Journal op-ed piece. Walsh flatly denies it.

Walsh maintains that he never established residency in the District of Columbia and so did not owe D.C. tax. Under D.C. law, however, if you spend more than 183 nights in the District of Columbia, you are deemed a domiciliary for income tax purposes. When he learned this in 1992, he paid income tax and interest for 1988, the only time he spent enough time here. He was granted a waiver of any penalty since the violation was not willful.

Walsh's tax dispute with New York involves whether certain retirement benefits are an annuity taxable in Oklahoma or a distribution of New York, taxable in New York. Walsh has paid the taxes under protest in New York and there has been no penalty.

Tenth, Walsh and his staff obtained excess reimbursement from the Government for travel and subsistence expenses, including first-class air travel and an apartment at the Watergate that he kept even when he was out of town.

The GAO found some overpayments of travel and subsistence expenses, but it waived repayment under the statutory rules since there was no evidence of fraud or wrongdoing on the employees' part. GAO found (i) some of the distributions were based on erroneous advice from government officials—at the AO; and (ii) in some respects, the statute is unclear about what expenses are permitted.

Walsh's office has conformed its practices to GAO's recommendations.

S. 24 remedies the ambiguities flagged by GAO.

Eleventh, Walsh missed the opportunity to proceed first against North and Poindexter by not taking up the Senate committee's offer to hold off in deference to his prosecutions.

The Senate committee offer to wait only if Walsh was going to bring a

quick indictment—for example, for shredding documents and obstruction—but Walsh concluded he needed to pursue a more time-consuming conspiracy charge.

The Senate did wait to allow the IC to "can" testimony before immunity was granted.

Twelfth, Walsh's conduct of a mock trial in preparation for the Weinberger case was overzealous and a waste of money.

In ordinary prosecutions, the Justice Department can use internal resources as a proxy for a mock trial—e.g., practicing aspects of its argument on nonlawyer staff members. ICs don't have this option.

The IC staffer who decided to use a mock trial came from a private trial practice where the use of mock trials is standard procedure.

Thirteenth, the jurisdiction given Walsh by the Special Court was overly broad.

Fashioning an appropriate statement of jurisdiction is within the Special Court's discretion.

Fourteenth, Walsh has been unprofessional in making comments to the press.

Walsh and his staff had little contact with the press until after the pardons, which present a prosecutor with a very unique circumstance.

And so, Mr. President, I believe it is important to have a fair record of the independent counsel investigation by Judge Walsh. In such a politically-charged investigation with so much at stake, it can be easier to attack the messenger in order to take public attention off the message. Iran-Contra was one of the most serious scandals affecting the conduct of foreign policy in our history. As the Iran-Contra Committee wrote in its executive summary of its report, "The full story of the Iran-Contra affair is complicated and, for this Nation, profoundly sad. * * * But enough is clear to demonstrate beyond doubt that fundamental processes of governance were disregarded and the rule of law was subverted."

1993 OMNIBUS CRIME BILL

Mr. FEINGOLD. I rise to express my opposition to the Violent Crime Control and Law Enforcement Act of 1993.

But before I begin to describe and express the concerns that I have with this bill, I would like to first praise the many provisions which I support, and commend the managers of this bill, the distinguished chairman and ranking member of the Judiciary Committee, for including them in the bill. Although I will not be able to support the bill as it currently stands. I respect the effort and amount of work they and their staffs have put into this package to assure its passage.

This bill, as amended, will now provide the funding necessary to place up to 100,000 additional police officers on the streets and highways of the United States. These additional men and women, some involved in community policing programs which are a proven effective crime deterrent in urban areas, will provide much needed relief to our Nation's urban, suburban, and rural communities' crime prevention efforts and will come as welcome reinforcements to the law enforcement officials who already serve and protect the public.

As far as I am concerned, this is one of the best components of the package. Additional law enforcement officers is one kind of help the American people want and need. It is about time that we provide meaningful crime prevention tools to our Nation's State and local governments rather than tough rhetoric coupled with the addition of offense after offense to an all but meaningless list of Federal crimes which will affect only a tiny fraction of street crimes. As the distinguished majority leader and a few others have pointed out on the floor urging this debate, the violent street crime that we are all concerned about is for the most part the responsibility of State and local law enforcement agencies. Additional police officers will definitely help in these efforts.

Local law enforcement efforts will also be enhanced by the provisions included in the rural drug enforcement title of the bill. The rural drug law enforcement title would authorize $50,000,000 for rural law enforcement agencies and their drug enforcement operations and training, and would establish drug task forces in rural areas of our Nation involving both Federal, State, and local law enforcement officials. These task forces would provide for greater cooperation and intelligence gathering capabilities in local and State law enforcement drug control efforts.

As I mentioned on the floor last week when describing the State of Wisconsin's State and local law enforcement efforts at controlling the new drug Methcathinone, I was encouraged to see that the distinguished managers of the bill had recognized the inherent difficulties involved in rural, State, and local drug law enforcement efforts by including these provisions and the precursor Chemicals Act in this bill as well.

I strongly support other parts of the package which assist State and local government's efforts in the prevention of youth crime as well, such as the funding to the States for enhanced school security measures and crime prevention programs and the youth gang enforcement and prevention initiatives.

In my view, these are the types of measures that will best alleviate the street crime which the American people are demanding action to be taken on.

Other provisions and concepts that I support are the bill's requirement of much-needed drug treatment for prisoners, a proven tool at reducing future drug use and its related crimes, and the bill's use of punishment alternatives to mandatory prison incarceration for nonviolent drug users, to name a few.

It is because of the merits of these and other provisions that I supported the funding of this anticrime package by voting for the amendment offered by the senior Senator from West Virginia which ensured the funding of this bill and provided the money necessary to place an additional 40,000 police officers on the streets as well as the construction of more prison space.

I voted for this $22 billion in funding because I recognize that we must act now to assist State and local governments help curb the growing violence that is plaguing our Nation.

It is unfortunate that we had to include symbolic measures on top of these real solutions to make the bill more compatible for sound-bite material.

Now I understand that the chairman of the Judiciary Committee has a job to do—get a crime bill passed. And the distinguished Senator from Delaware has probably best described the mood of this Chamber and its get-tough attitude when he speculated that if an amendment were proposed, barbwiring the ankles of anyone who jaywalks, it would pass.

But is it really necessary to expand the death penalty to at least 47 new offenses as the original bill did—not to mention those added by amendment?

It is vital that our Nation comes to grips with the rise in violent crime, and find solutions that will curb the growing violence that is gripping our Nation's communities. This rise in violent crime is disturbing and deserves our undivided attention and concerted action to seek and enact meaningful solutions—symbolic measures such as the death penalty do nothing more than divert our attention away from the real crime prevention efforts.

Debate on capital punishment has shown us the inherent flaws in the implementation of the death penalty. Not only does it increase the potential for mistakes, and ultimately the execution of an innocent individual—in my view one of the most tragic acts a government can take, but it also is carried out in a discriminatory fashion. The death penalty also has no proven deterrent effect and in fact only adds to a society's violence by teaching us, and especially our children, that the way to deal with violence and murder is with more death.

As I have stated several times during this bill's debate, I oppose the death penalty. And due to its inclusion and substantial expansion, I had already decided to vote against this bill even though it contains some very important crime prevention measures. But

any doubt regarding this decision was completely wiped away when the Senate adopted the amendment offered by the junior Senator from New York which would allow the Federal prosecution of gun-related crimes that are presently under the jurisdiction of State law and local prosecutors.

It is one thing for us to beat our chests and get tough on crime by expanding the Federal death penalty for Federal crimes—for that is what we are all elected to do—work on Federal legislation—but to usurp the rights of State legislators that have decided in good conscience against imposing the death penalty by enacting legislation that would override State law and allow local prosecutors to decide who should be charged with the death penalty under Federal law rather than State law is not only going too far—it is an outrage.

As I stated during the debate of that amendment on the floor, I resent the idea that this body would try to overturn—and now has overturned—the will of my State of Wisconsin and its proud tradition of not having the death penalty on its books—a tradition of 140 years—longer than any other State and reaffirmed just months ago by the State legislature.

Previously I briefly mentioned the problems we have now in implementing the death penalty. The implementation of the death penalty has historically been tainted with racial disparities. Study after study including a 1990 GAO report have confirmed this. And even current Justice Department implementation of the drug kingpin law has been criticized for its racial bias. If these problems exist now—I cannot even begin to think of how these racial disparities will be exacerbated when a State or locally elected prosecutor is the one who decides who should and who should not be tried for a capital offense under Federal law.

As I previously stated, I strongly support many of the provisions included in this package and wish that the bill only contained these and other real crime prevention tools so that I could maintain the State of Wisconsin's fine tradition of seeking real solutions to crime problems rather than resort to symbolic solutions like the death penalty.

I can only hope that the conference report will not include this expansion of the death penalty and some of these other provisions which do nothing to but make us sound tough on crime, such as the hate crimes sentencing enhancement, which in my view leads us one step further toward the curtailment of one of our Nation's most treasured assets, the freedom of expression. The amendment which was passed which reversed the long standing legal principle of not admitting evidence of similar conduct to be offered against a defendant embodied in the Federal rules of evidence is yet another provision which sounds great at first—until you sit down and analyze its ramifications. Unfortunately, these are not the only flawed provisions which we have included in our rush to get an anticrime bill passed.

Although this has been the first crime bill debate that I have been involved with as a Member of this distinguished body, I have noticed that these crime bills that are passed including the present one are progressively tougher and tougher on crime. Yet from all indications, including the uniform crime reports, and most certainly by all the tragic detailed accounts depicted by various Members here on the floor, violent crime has not gone down—in fact it has tragically been on the rise.

So what is the solution? I certainly do not think it is the death penalty and its further expansion. And after we pass all of the sentences we have increased and have federalized almost every violent offense we can think of, what will we do if the next uniform crime report comes out and it shows us that violent crime is still on the rise and even more Americans than already now do live in fear?

If these severe measures that we will pass today are not adequate enough to deal with the violence in our society—what is?

It is in this vein that I urge my colleagues to explore other solutions in the upcoming years so that we can get at the root causes of this disturbing violence. Although it seems that the words root causes are somewhat of a taboo these days, this bill does authorize several commissions that will look into the seeds of crime. Although I realize that there will probably always be some type of crime—no matter what our society does, let's at least carefully examine the recommendations made by these commissions and try and work together on meaningful solutions to at least bring crime down to a manageable level. I look forward to working with each and every Member toward this goal.

GUN DEALER LICENSING AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the amendment proposed by the Senator from Illinois, [Mr. SIMON] that will strengthen Federal regulation of firearm dealers. I am proud to be a cosponsor of the amendment, and to have worked extensively with Senator SIMON and other interested Senators on this issue.

Mr. President, the current system of regulating firearm dealers is a joke. A bad joke.

There now are more federally licensed firearm dealers than gas stations in this country. Some 287,000 now have licenses, and the number is growing rapidly.

Yet only about a quarter of these dealers, Mr. President, are operating legitimate storefront businesses. The rest, operating out of their homes, are known as kitchen table dealers. Most of these people obtain licenses in order to obtain guns tax-free by mail at wholesale prices, and to evade waiting periods, gun purchase limits, and other firearm laws.

Many firearms that are used in crimes are traceable to these kitchen table dealers. There are numerous examples of dealers who have provided huge numbers of guns to drug dealers, gang members, gun traffickers, terrorists, and other criminals.

To provide one illustration, consider the case of David Taylor, a resident of a South Bronx housing project. Taylor reportedly had a long criminal record that included an indictment for murder. Nevertheless, he was able to obtain a Federal firearm dealer license. In less than 1 year, Taylor bought more than 500 guns from wholesalers in other States. The guns were delivered by UPS in batches of up to 100 at a time. Taylor then sold the guns to drug dealers and other criminals.

This is not an unusual case, Mr. President. It is typical. And it suggests the importance of tightening up our regulatory system, which is far too loose.

Mr. President, becoming a kitchen table dealer is easy, quick and very inexpensive. All you have to do is fill out a form and send in $30, which covers the $10 annual fee for 3 years. There is no hassle, no fuss, and, most likely, no ATF agent will call.

That is generally not ATF's fault, either. The Bureau has simply lacked the resources to check out applicants, or to investigate many licensees. While the number of firearm dealers has increased by about 65 percent since 1980, the number of ATF investigators assigned to inspect these dealers has been reduced by 13 percent. As a result, fewer than 10 percent of dealer applicants undergo an actual inspection. And then, once licensed, the average dealer is audited only once every 20 years.

Clearly, Mr. President, the Bureau needs more agents and more funding to better police the system. And the best way to both provide those resources, and to limit the Bureau's burden, is to raise the licensing fee.

Mr. President, it is bad enough that innocent Americans are being placed at risk because the system of licensing firearm dealers is so lax. But adding insult to injury, the current $10 annual licensing fee does not even come close to paying for the system. In effect, hard working taxpayers are being forced to subsidize firearm dealers. It is an outrage.

Mr. President, a licensing fee should be sufficient to at least pay for the

costs of administering the regulatory system. And, in my view, the social costs of dealing in firearms—such as the costs of crime and of health care for victims of gun violence—also should be factored in.

Unfortunately, Mr. President, the Simon amendment proposed to this crime bill does not include an increase in the fee. I am disappointed by that, and hope we will be able to gain support for a significant increase in the future.

The amendment does, however, contain several valuable measures.

For example, the amendment will ensure that license recipients are in compliance with State and local laws. Strange as it may seem, ATF now is issuing licenses even in cases where the Bureau expects that the licensee will operate in violation of State or local law. That does not make sense.

The amendment also will make it easier for ATF to complete a thorough background check, by extending from 45 to 60 days the period during which ATF must act on a license application.

The amendment also will require applicants for a dealer license to submit their fingerprints and a photograph. This should help ATF to better monitor licensees, and may discourage some individuals from seeking a license to pursue illegal ends.

Other provisions of the amendment will require dealers to report the theft or loss of a firearm within 48 hours of being discovered, and to respond to requests from ATF for information in a dealer's record within 24 hours. These measures will help ATF conduct timely and effective criminal investigations.

Mr. President, tightening the regulation of firearm dealers can make a real difference in the battle against gun violence. But, clearly, we have to do more. I am very pleased that this bill also includes measures to ban the manufacture of assault weapons and to prohibit the possession of handguns by juveniles. And I am hopeful that we will soon be approving the Brady bill,to establish a waiting period for handgun purchases.

Senator SIMON and I also have introduced legislation to limit handgun sales to one per month, to reduce interstate gun running. And we have proposed to close what I call the "guns for felons loopholes," Federal laws which allow even convicted violent felons to possess firearms. I will continue to push these proposals aggressively in the future.

In closing, let me again congratulate Senator SIMON for his outstanding leadership in this area. He and his excellent staff have devoted a great deal of time and effort to improving the regulation of firearm dealers, and they deserve great credit for their work. I am pleased to have had the opportunity to work with them on the initiative, and I look forward to continuing our joint efforts to raise the licensing fees for dealers, and to enact other measures to combat gun violence.

EXPANSION OF THE CRIME BILL

Mr. PELL. Mr. President, I would like to briefly outline the reasons why I felt I could not support the manner in which the crime bill was expanded when the Senate considered an agreement covering a package of core issues on November 4. First, I would like to state that there is much contained in this package that I support. I applaud the overdue and necessary addition of police officers and the efforts aided at providing post conviction supervision and treatment through drug courts to young, first-time offenders. I also am pleased that the Violence Against Women Act has been funded, a measure which combats the horrible and tragic problem of domestic violence and of which I am a cosponsor.

But in weighing the pros and cons of the entire amendment which placed such heavy emphasis on increasing incarceration space and incarceration time, I felt simply that a major piece of the crime-solving puzzle was left out. If our battle against the truly shocking and abhorrent level of crime in our society is to be successful, we must seriously address the root causes of crime such as poverty, lack of education, and lack of opportunity. We must also continue to explore serious efforts at rehabilitation of nonviolent offenders. This amendment failed to go enough in these areas.

We already have the highest incarceration rate of any developed country in the world. Indeed, over the last 10 years, incarceration has increased 73 percent but crime still spirals out of control. Make no mistake: I do believe that incarceration is appropriate and the only alternative for repeat violent offenders. The heinous acts occurring daily on our streets by previously convicted violent criminals who have been released early must stop and if it means keeping them in prison, we must do so. But we are also locking up thousands and thousands of nonviolent, first-time offenders at great cost without providing the rehabilitation and education that has been shown to work for such individuals. It costs more per year to send a person to jail than it does to educate one at Yale. Certainly any crime control measure which contemplates spending such extraordinary amounts of money on prison construction must also take more seriously the efforts to combat the root cases of crime and providing the opportunity for rehabilitation services for those who are likely to respond to it.

I look forward to continuing the work on this and other crime control measures. I am pleased that the Senate is moving forward on a comprehensive bill to finally address this tragic problem in our society. I regret not being able to support this particular amendment to this bill but am confident that the final package will be one that truly begins to make a serious dent in our Nation's crime problem.

MOTOR VEHICLE THEFT PROVISIONS

Mr. LAUTENBERG. Mr. President, the crime bill before us includes legislation I authored, the Motor Vehicle Theft Prevention Act, to address the growing national problem of motor vehicle theft.

The Motor Vehicle Theft Prevention Act, or MVTPA, would establish a national framework for State and local vehicle theft prevention programs. The legislation is based on programs operating in various jurisdictions around the country, typically called combat auto theft [CAT] or help end auto theft [HEAT].

Under these programs, a vehicle owner may voluntarily sign a form stating that his or her vehicle is not normally operated under certain conditions, typically between the hours of 1 a.m. and 5 a.m. Decals are then affixed to the vehicle. If a law enforcement officer later sees the vehicle being driven under the specified conditions, the decals provide grounds for establishing the reasonable suspicion necessary to stop the vehicle and make appropriate inquiries.

The MVTPA directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide. Participation will be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has increased substantially in recent years. According to the Uniform Crime Report, between 1984 and 1991 motor vehicle theft increased by 61 percent, to almost 1.7 million offenses per year. Around the country, there is an average of one motor vehicle theft every 19 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The vehicle theft problem is particularly serious in my state of New Jersey. Newark, NJ recently has had the highest rate of auto theft in the Nation. Several New Jersey cities also share the dubious distinction of being in the top ten. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and

making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young—sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often drive recklessly, sometimes to avoid the police, and that leads to death, injuries, and destruction of property.

Clearly, Mr. President, there's no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is a crime with a clear interstate dimension. So the Federal Government also has an important role.

I am pleased that last year the Congress approved the Anti-Car Theft Act of 1992, legislation which I strongly supported and which included several proposals that I had sponsored. Among other things, the new law established federal criminal penalties for car jacking, authorized grants for anticar theft committees, tightened export controls, and strengthened the vehicle parts marking program.

The new law has sent a strong message to prospective car thieves, and I am hopeful that it will help reduce the incidence of this crime. However, more needs to be done. While the MVTPA is no cure-all, it can make an important contribution.

The concept for the MVTPA was first developed in New York City in the mid-1980's by State Senator Leonard Stavisky. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It's a simple, inexpensive and innovative concept. And by all indications it's been extraordinarily successful.

In New York City, over 70,000 vehicles have participated in the program. In 1990, only 60 were stolen. Cars without decals were about 65 times more likely to be lost to theft.

The success of the program in New York has led to similar success stories around the country. Over 75 jurisdictions have adopted the program, including Dallas, Houston, Philadelphia, St. Louis, St. Paul, and San Diego. New Jersey and New York have programs that operate on a state-wide basis. The idea has even been adopted in England, Canada, and Australia.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

As I have explained, Mr. President, the Motor Vehicle Theft Prevention Act directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide.

There are several benefits of establishing a national program. First, it will increase the use of this approach, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the concept. At the same time, many officials, particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across state or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to lawfully stop the car. A uniform design will eliminate this problem.

Mr. President, some have asked how a program like this works, since professional auto thieves should be able, with some work, to scratch off the decals. Most officials I have talked with believe that the program works because time is of the essence to auto thieves, who typically will enter a car and drive away in a matter of seconds. Many cars are stolen in exposed areas, such as shopping center parking lots. So thieves feel they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials are skeptical about the program's likely effectiveness in their jurisdiction, they are free not to participate.

I would also note, Mr. President, that this type of program is entirely consistent with the Constitution's fourth amendment protection against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion of criminal activity. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry and highway safety advocates. This proposal is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

I also want to express my appreciation to Senator BIDEN for his support and assistance on the Motor Vehicle Theft Prevention Act.

Mr. President, I have prepared several questions and answers about the Motor Vehicle Theft Prevention Act that will help explain the legislation in greater detail. I ask unanimous consent that they be printed in the RECORD at this point, along with other materials related to the legislation.

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

QUESTIONS AND ANSWERS ON THE MOTOR VEHICLE THEFT PREVENTION ACT

Isn't it wrong to allow car owners to waive the constitutional rights of passengers, or people to whom they might lend their car?

According to well-established constitutional law, a person may consent to be searched under circumstances in which the search would otherwise be unconstitutional, so long as the consent is given voluntarily. However, a law enforcement officer may stop a vehicle without consent, if the officer has "reasonable suspicion" of criminal activity.

Vehicles may be stopped under the Motor Vehicle Theft Prevention Act (MVTPA) not simply because the owner has consented to be stopped, but also because the existence of a decal on a vehicle being driven under the specified conditions provides grounds for establishing a "reasonable suspicion" of criminal activity.

The "reasonable suspicion" arises because, in order to receive a decal, the owner must sign a certification establishing that: 1) the vehicle is not normally driven under the specified conditions, and 2) "the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or

with the consent of the owner". Therefore, if the vehicle has such a decal, and is being driven under those circumstances, there is an objective, reasonable basis for a police officer to suspect that the car is not being driven with the owner's consent.

To illustrate the point, the decal might be considered the functional equivalent of a large highly visible placard attached to the rear of a car that says: "If this car is being driven between 1 and 5 am, it probably has been stolen." If a police officer sees such a car being driven at 2 a.m. he or she will be entirely justified (perhaps even morally obligated) to stop the car and see if the car has been stolen. In fact, in the case of a decal under the Motor Vehicle Theft Prevention Act, the officer would have an even stronger basis for stopping a vehicle, since decals may be affixed to a vehicle only if the owner personally has signed a written statement certifying that the car is not operated under the specified conditions. In either case, the fact that a passenger has not personally consented to a stop, or may not have seen the placard or decal when he or she entered the car, does not affect a police officer's right to stop the vehicle.

Moreover, under the terms of the legislation, the decal design must include an express statement explaining that the vehicle may be stopped if operated under the specified conditions. The decal must be "highly visible". So, although this is not required by the Constitution, passengers (and drivers other than the owner) will get notice of the possibility that the car may be stopped under certain conditions.

How can this type of program be successful when thieves can just peel off the decals?

The primary goal of the program is not to apprehend auto thieves, but to protect vehicle owners from having their car stolen in the first place. The effectiveness of the program as a deterrent is well established.

In 1990, for example, of 71,000 vehicles participating in the C.A.T. program in New York City, only 60 were stolen. Vehicles without decals were 65 times more likely to be stolen. Many of the other 75-plus jurisdictions that have these programs [e.g. St. Paul, St. Louis, Dallas, Houston, Trenton] report similar success.

The demonstrated effectiveness of the program explains why several private insurance companies offer discounts to owners who participate. It also explains why the legislation is endorsed by the Alliance of American Insurers and State Farm, the nation's largest auto insurer, as well as the National Fraternal Order of Police and Advocates for Highway and Auto Safety. In addition, it explains why the concept is spreading so rapidly around the U.S. and abroad.

Why does the program work when professional thieves are able to remove decals? First, decals are produced so as to be very difficult to remove. While professional thieves are able to do so, most cannot afford to spend the time it takes to get into the back seat and scratch the decals off. Vehicles typically are stolen in a matter of seconds. From the perspective of a prospective thief, who needs to escape as soon as possible, the additional time it takes to scratch off the decals makes such a vehicle an unattractive target.

In any case, the bill is entirely voluntary. States and municipalities need not participate if they don't think the program will work. And even in States/municipalities that establish programs, vehicle owners who don't think the decals will help are also entirely free not to participate.

Who will produce the decals?

The legislation does not require the federal government to produce the decals. The Attorney General would have flexibility on this matter, but one option would be to allow private firms to produce the decals and then market them to municipalities and States. If the Attorney General so chose, I would urge her to consider the establishment of quality standards, under her general authority to promulgate regulations under the legislation.

For example, the Attorney General could require manufacturers to get approval for their decals before they are used by participating jurisdictions. This would ensure that decals used accurately reflect the Attorney General's design, and that the appearance of the decals produced by different manufacturers remains uniform.

Who would distribute the decals and consent forms at the State and local level?

That's left up to the State and local governments under the legislation, though nothing precludes the Attorney General from promulgating regulations on this matter, if necessary. In New York, administration is handled by police departments.

Would states and localities be allowed, or required, to charge a fee to participants in the consent-to-stop program?

States and localities may charge fees, but they are not required to do so. Many jurisdictions may be able to fund the program from private sector donations.

How can we be sure that law enforcement officials will know what the decals mean?

As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

Can the Attorney General establish more than one set of conditions under which vehicles may be stopped?

Yes. If the Attorney General does so, she must establish separate decal designs and consent forms for each set of conditions. For example, she might use different colored decals to designate different sets of conditions.

Typically, existing programs are based on the use of vehicles during late night hours. It may be best to at least start the program with only one set of conditions, such as driving during the hours between 1 AM and 5 AM. However, in drafting the legislation, I wanted to provide the Attorney General with the flexibility to establish other types of conditions, if they make sense.

For example, it may be appropriate to establish a decal design for vehicles that are not normally operated during business hours. I understand that a program operating in San Francisco in conjunction with the BART transit system operates during daytime hours—to protect owners who commute to work and who park in mass transit parking lots during the day.

Also, since many senior citizens and others do not drive on fast-moving highways, some have suggested that the Attorney General might consider a decal design that allows a vehicle to be stopped if operated on such a highway, or above a certain speed. Another possibility would be to establish a design indicating that the vehicle is not normally operated outside of a given geographical area, such as a county or state. Such a design could include a space for printing the name of the prescribed normal driving area.

Having raised these possibilities, I would urge the Attorney General to be cautious. Before adopting a wide variety of conditions, I would hope that she would take reasonable steps to ensure sufficient interest among vehicle owners. A plethora of conditions could prove needlessly confusing to law enforcement officers.

Can owners take decals off their car if they want to?

Yes. They need not inform anyone or do anything else, although conceivably the Attorney General, or a State or local government, might establish such a requirement.

What happens when you sell your car?

In New York, you must take the decals off when you sell your car. Under the legislation, the Attorney General would have the authority to promulgate regulations requiring owners to remove decals upon sale or transfer of the vehicle.

What if some kids, as a prank, get some counterfeit decals and start putting them on cars. And then someone driving in the car is stopped, without realizing that a decal has been put on his car. Wouldn't the stop violate the driver's constitutional rights, since he has not consented to be stopped?

No. The basis of the stop would be the officer's reasonable suspicion of unlawful activity, not the driver's consent. The presence of the decal will give an officer reasonable suspicion to stop the car (assuming it is being driven under the specified conditions). However, the legislation includes a provision that makes it illegal to affix a theft prevention decal to a motor vehicle unless authorized to so so under the law. The maximum penalty is $1000.

Once an officer has stopped the car, what kind of questions can he or she ask?

The legislation doesn't say anything about the questions that a police officer asks once the car has been stopped. Police will ask the same type of questions that an officer would ask now if the officer stops a car because of a suspicion that it has been stolen.

For example, the officer might ask the driver for his license and registration forms. If the driver says he doesn't have them, he can ask further questions like: 1) where do you live?, 2) how long have you owned the car?, 3) from whom did you buy the car?, 4) how much did you pay for the car?, 5) what model year is the car?

Most police can determine through such questions whether the driver is really the owner, or has the consent of the owner. Also, the police can call their office, which can check the National Crime Information Center (NCIC) computer data bank, which maintains records of cars reported stolen.

How long can an officer hold a car to ask such questions?

The legislation doesn't change the rules about how long the police can hold a car that has been stopped because they suspect it has been stolen. Generally, the stop can only be for a few minutes, unless the police, through questions or otherwise, determine that there's probable cause to detain the person further, or make an arrest.

Does the legislation seek to establish a new form of "reasonable suspicion"?

No, Congress may not change constitutional law, and this legislation does not seek to do so. The bill operates entirely within the existing structure of Fourth Amendment doctrine. It does not change the meaning of "reasonable suspicion"; it works by establishing the actual conditions that give rise to a "reasonable suspicion", as that term is currently defined.

What if a police officer sees a vehicle with a decal being driven under the specified conditions, but happens to know that the car is being

driven by the owner and the officer does not have a reasonable suspicion of criminal activity; does the legislation authorize the officer to stop the vehicle simply on the basis of the decal?

No. Under the bill's language, the existence of a decal on a vehicle provides a basis for a stop-and-question procedure "to determine whether the vehicle is being operated by or with the permission of the owner". Signing a consent form constitutes consent to be stopped for this purpose, not to be stopped on an arbitrary basis. Where an officer already knows or believes that the car is being driven by or with the permission of the owner, and has no reasonable suspicion of criminal activity, the legislation does not authorize a stop.

Would police officers be allowed to stop a vehicle on the basis of the driver's race, gender or age?

No. The legislation makes clear that vehicles may not be stopped on the basis of race, color, national origin, gender or age. Stops would be allowed only on the basis of a reasonable suspicion that a vehicle has been stolen.

Are vehicle owners likely to be coerced by police officers to participate in the program?

No. I am not aware of any evidence that this has been a problem in the cities that have adopted CAT or HEAT programs, nor is there any reason to believe that police officers would want to coerce citizens to participate. Moreover, the legislation contains safeguards to ensure that owners understand that participation is entirely voluntary. Under the bill, before obtaining a program decal, an owner must sign a consent form that clearly states that participation in the program is voluntary.

What happens in those jurisdictions that already have consent-to-stop programs underway? Do they have to change their decals to conform to the uniform national decal design?

No, they can keep using their existing decals.

The legislation does not preempt existing State or local programs, nor does it require States or localities to adopt the uniform decal designs.

[From the New York Times, Oct. 2, 1988]

ANTIDOTE FOR AUTO THEFT

An innovative, inexpensive New York City program promises genuine relief for the epidemic of automobile thefts in American cities.

Last year, Americans reported 1.3 million stolen cars, an increase of 23 percent since 1983. Most were stolen during early morning hours, and a program called Combat Automobile Theft, conceived two years ago by State Senator Leonard Stavisky of Queens, seeks to take advantage of that fact. Car owners sign a consent form that allows the police to stop the vehicle if it's being driven between the hours of 1 A.M. and 5 A.M. Bright yellow decals affixed to the car's windows put thieves on notice that the owner has enrolled.

Normally, police are prohibited under the Fourth Amendment from stopping a car without cause. Some civil libertarians question whether a car's owner can waive the privacy rights of someone else who might drive the car. But a thief would have no privacy claim, and the owner's statement creates a reasonable suspicion that a crime is in progress.

The program began in 1986 in two Queens precincts and now has been expanded to include 28 precincts citywide. The decals have proved a remarkably successful deterrent. Of the 17,871 cars enrolled in the program citywide, only 18 were stolen in two years—a rate dramatically below the city average.

The Combat Auto Theft program isn't the full answer to the nation's rising auto theft problem. But it does afford a simple, creative way for car owners to better their odds.

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

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: It is with great pleasure that, on behalf of Dewey Stokes, National president of the 230,000 member Fraternal Order of Police, I write to you to endorse, and pledge our support for your "Motor Vehicle Theft Prevention Act".

Motor vehicle theft is a nationwide problem that effects a wide range of people, the insurance industry and the law enforcement community.

On an average, there is probably a motor vehicle stolen every minute of every day in this country. Every one of these thefts requires that a police officer take time away from protecting the citizens of this Country from the more serious crimes of violence and drug abuse. It also has a serious effect on the insurance industry. But, most importantly it is devastating to the victim; the sudden loss of possibly their only means of transportation to and from work and caring for family members.

We applaud your efforts and make ourselves available to assist in the passage of this important piece of legislation.

Yours truly,

ROBERT J. ROBBINS,
Legislative Committee Member.

ADVOCATES FOR HIGHWAY, AND AUTO SAFETY,
Washington, DC, June 14, 1991.

Hon. FRANK LAUTENBERG,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Advocates is pleased to see your efforts to address the major national problem of auto theft through S. 1248, the Motor Vehicle Theft Prevention Act. According to the 1989 Uniform Crime Report, every 20 seconds, a car is stolen in the United States. Many are never recovered; they are either shipped overseas or carved up in "chop shops" and sold for parts and scrap metal. The annual cost to Americans of auto theft is more than $8 billion.

Some effective steps to stem such thefts such as marking automobile parts with the VIN (Vehicle Identification Number) have been taken, but much more can be done. One program to reduce auto theft which has been successful in a number of communities allows vehicle owners to authorize law enforcement officials to stop their vehicles when operated during late night hours.

Advocates supports the adoption of such programs, and endorses S. 1248, which will provide uniformity in these programs. Proposing guidelines for such programs, is an appropriate Federal role. Greater uniformity will lead to greater effectiveness of these efforts, and may also lead to wider adoption of these auto theft prevention programs.

We commend you for your vision in these efforts, and we look forward to working with you to assure the passage of this bill.

Sincerely,

JUDITH LEE STONE,
Executive Director.

ALLIANCE OF AMERICAN INSURERS,
Washington, DC, April 26, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Alliance of American Insurers is a national trade association representing 170 property and casualty insurers. As such, we are quite concerned about automobile theft and fully support your legislation, the Motor Vehicle Theft Prevention Act (MVTPA).

Several cities have adopted "consent-to-stop" programs, whereby the vehicle owner agrees that his car can be stopped if it is being operated during certain times or by certain age groups. These programs are showing significant success and should be encouraged in other jurisdictions. Your legislation will aid the formation of these programs and will provide some uniformity as the list of participating jurisdictions increases.

We appreciate the opportunity to participate in discussions on this and other auto issues. If we can be of any assistance, please let me know.

Sincerely,

SARA F. CLARY,
Assistant Vice President,
Federal Affairs.

STATE FARM INSURANCE COMPANIES,
Bloomington, IL, May 31, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: As the nation's largest automobile insurer, insuring more than 33 million automobiles, we have a deep and continuing concern about automobile theft. We have been actively involved at the local, state and national level in programs to combat automobile theft. Automobile theft is a multi-faceted problem which calls for a number of effective approaches to make significant headway in battling this serious problem.

We strongly support your legislation, the Motor Vehicle Theft Prevention Act, which will encourage development of programs which will have a significant positive impact on the problem of auto theft. The "consent-to-stop" programs which will be encouraged by this legislation have been used in a number of jurisdictions with positive results. Your legislation will add uniformity to these programs and encourage their adoption in other jurisdictions.

We would be happy to work with you and your staff on this legislation and other auto issues. Let us know if we can be of any assistance to you on your legislation.

Sincerely,

HERMAN BRANDAU.

[From the Wall Street Journal, Mar. 7, 1989]

CAR INSURERS TO CUT RATES FOR CUSTOMERS IN ANTI-THEFT EFFORT

(By Robin G. Blumenthal)

NEW YORK.—Units of Fireman's Fund Corp. and of Travelers Corp. announced a plan a give discounts to policy holders who register their vehicles in a program to combat auto theft.

The plan, outlined at a news conference with representatives of the companies: state Sen. Leonard P. Stavisky, a Queens, N.Y., Democrat: and the Automobile Club of New York would offer a 5% reduction on comprehensive automobile coverage to participants in the Combat Auto Theft, or CAT, program that Sen. Stavisky started more than two years ago.

Representatives of Fireman's Fund Insurance Cos., of Novato, Calif., and Travelers Cos., of Hartford, Conn., estimated an average savings to participating policy holders of about $20 to $30 a year on their comprehensive auto coverage, which costs an average of about $300 a year.

CNA Insurance Cos. of Chicago, a unit of Loews Corp., also is participating in the program.

Under the CAT program, car owners sign an informed consent statement issued by the police department that indicates their vehicles aren't usually used between 1 a.m. and 5 a.m., when officials say most thefts occurs. Decals are placed on the rear of the vehicle, so that officers spotting such a car in operation during those hours may stop the driver and request to see his license and registration.

According to Sen. Stavisky, "automobiles not registered in the program are 40 times more likely to be stolen than those that bear the police deacls." He likened parts of his constituent area in northeastern Queens to a "Ho Chi Minn trail for chop shops," which parts of stolen cars are stripped and later resold.

In addition to the New York metropolitan area, the CAT program is available in Philadelphia, Yonkers, N.Y., and East Brunswick, N.J. Scotland Yard also plans to begin a pilot project in the greatest London area. Sen. Stavisky said similar legislation is being introduced in California, New Jersey and Florida.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. LIEBERMAN. Mr. President, as the Senate considers passage of the National Defense Authorization Act for fiscal year 1994, I would like to elaborate on one particular provision of the conference report accompanying the act. The conferees agreed that the Navy may obligate $540.2 million, appropriated in Public Law 102-298, for advance procurement of long-lead items for a third *Seawolf* attack submarine, known as SSN-23. This action supports the Department of Defense Bottom-Up Review, which concluded that the most cost-effective way of preserving our Nation's capability to produce submarines is to construct a third *Seawolf*. However, the conferees indicated that they reserve judgment on reauthorizing SSN-23 until the Secretary of Defense requests full funding for this submarine in a future budget. Regarding this issue, it is important to note that the National Defense Authorization Act (H.R, 2100) passed in November, 1991, did authorize SSN-23. An fiscal year 1992 appropriation pursuant to this authorization was also passed in 1991, and I understand that there were significant expenditures of fiscal year 1992 funds for costs related to SSN-23. Subsequently, the remaining fiscal year 1992 appropriation for the *Seawolf* program was partially rescinded in Public Law 102-298, with $540.2 million left either to provide advance procurement for SSN-23 or to preserve the submarine industrial base, depending on a decision by the Secretary of the Navy. Thus, for a substantial period during fiscal year 1992, an SSN-23 appropriation existed in tandem with an SSN-23 authorization, and, in fact, fiscal year 1992 funds were used to purchase SSN-23 items. Since fiscal year 1992 funds were both authorized and appropriated, and some of those funds were actually spent, and neither the authorization nor the complete appropriation were rescinded, the original SSN-23 authorization would seem to remain valid. I make these points because I believe there is no specific legal requirement to reauthorize SSN-23.

THE CONVENTION ON BIOLOGICAL DIVERSITY; AND THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

Mr. BAUCUS. Mr. President, as in executive session, I ask unanimous consent that when the Senate receives from the President the following two treaties during the sine die adjournment of the first session of the 103d Congress:

The Convention on Biological Diversity; and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and that upon receipt by the Senate prior to or during the adjournment, the injunction of secrecy be removed from the two treaties, they be considered as having been read the first time; the treaties be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

THE DOE MINORITY BANK PRESERVATION ACT OF 1993

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1685, the DOE Minority Bank Preservation Act of 1993, a bill introduced earlier today by Senators MOSELEY-BRAUN and DOMENICI; that the bill be read three times, passed, the motion to reconsider laid upon the table; and that any statements relating to this measure appear in the RECORD at the appropriate place as if read.

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

So the bill (S. 1685) was deemed read three times and passed.

(The text of the bill, as passed, will be printed in a future edition of the RECORD.)

Ms. MOSELEY-BRAUN. Mr. President, the legislation I am today introducing, along with my colleagues from New Mexico, Mr. DOMENICI, and Oregon, Mr. PACKWOOD, is designed to preserve an important source of community development capital, the Department of Energy minority bank assistance program.

Under this program, the Department of Energy is able to deposit funds from the Petroleum Pricing Violation Escrow Fund in minority banks around the country. These banks are able to use these deposits for a variety of community development needs.

The deposits the Department of Energy makes at the participating minority banks uses a revokable trust mechanism which allowed the Department to retain Federal deposit insurance for the full amount it deposited at each bank. The deposits at minority banks have been fully insured since the program first began in 1980. The Department of Energy has exercised considerable care in selecting the banks that receive the deposits, and the result has been that the program has been problem-free.

Unfortunately, however, the Federal Deposit Insurance Corporation Improvement Act of 1991 terminates the Department of Energy's ability to retain deposit insurance for deposits over $100,000 at any individual bank. The result of that action is that this valuable, long-standing community development program is threatened with extinction.

The DOE Minority Bank Preservation Act of 1993 resolves this community development dilemma in a very narrow, careful way, one that preserves the critical reforms made by the 1991 banking legislation. By preserving the Department of Energy's ability to retain deposit insurance for its funds, it thus makes it possible for the Department to continue to support this community development program, which currently makes available $186 million to communities that desperately need capital for housing, small business, and other important community development needs.

Mr. President, the Senate Banking Committee, on which I serve, has held a number of hearings on community development hearings. I could go on and on about the problems so many communities have in accessing our financial services system, and how that disadvantages those neighborhoods. However, the bottom line is very clear. Less access to our financial system means less home ownership, less jobs, and less economic development.

The Department of Energy program helps change that for neighborhoods that desperately need access to capital. It is a no-cost program, and is a perfect example of the kind of good that can be accomplished through a public-private partnership. I strongly urge the Senate to promptly enact this legislation, so that this program can continue to provide access to capital to neighborhoods that so need that kind of economic development help.

Mr. PACKWOOD. Mr. President, today, along with my colleague Senator DOMENICI, I am introducing the Department of Energy Minority Bank Preservation Act. This legislation will amend the Federal Deposit Insurance Act to permit the continued insurance of certain deposits in minority and women-owned banks.

Since 1980, the Department of Energy has assisted minority and women-owned financial institutions by depositing funds in these institutions through the Bank Deposit Financial Assistance Program [BDFAP]. These funds are placed in a revocable trust account in minority and women-owned institutions in Oregon and across the country. Until 1991, the Federal Deposit Insurance Corporation [FDIC] insured each trust separately up to $100,000.

In 1991, the Federal Deposit Insurance Corporation Improvement Act eliminated the insurability of funds held in revocable trusts. The FDIC, aiming to reduce its risk, unintentionally touched the Department of Energy's successful BDFAP program. This program will expire on December 20, 1993, if Congress does not pass legislation allowing the insurability of these accounts.

The legislation I am introducing provides for the continuation of the current level of insurance coverage for the Bank Deposit Financial Assistance Program. This program has provided deposits to more than 100 minority and women-owned banks serving inner-city communities. In Oregon, American State Bank, located in Northeast Portland, has used these important funds to assist the development of minority entrepreneurship. This fund constitutes almost 25 percent of American State Bank's loan capability. I will include a letter from Mr. Venerable F. Booker, President and Chairman of the Board of American State Bank, supporting the continuance of the BDFAP fund.

This bill will not stop the current credit crunch problem that exists in our country. However, if this bill does not pass, many communities, already facing capital shortages, will lose a major source of funds used to stimulate competitive development in their neighborhoods.

I urge my colleagues to join Senator DOMENICI and me in supporting the passage of this important time-sensitive legislation.

I ask unanimous consent that the letter from Mr. Booker be printed in the RECORD.

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

AMERICAN STATE BANK,
Portland, OR, September 29, 1993.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Following up on our earlier discussions, this message explains the consequence to American State Bank of the loss of the Department of Energy's Bank Deposit Financial Assistance Program and the impact of terminating more than $170 million of stable deposits minority-owned Banks across the country use to spur competitive development in our nation's capital-starved inner cities.

American State Bank in Portland, Oregon's only Black-owned Bank, will see its service to Portland's inner-city community severely handicapped if we lose access to these stable, low-cost and competitive deposits from the Department of Energy. The BDFAP deposits are funding small business and consumer loans in Portland's inner city. They are helping to develop minority entrepreneurship and they are contributing significantly to building jobs and rebuilding our community. As a small bank, American State Bank and the people who depend on us will be particularly hard hit losing, over a six month period, losing almost 25% of our loan capability.

Please fight to preserve the Department of Energy's Bank Deposit Financial Assistance Program. The death of BDFAP means Portland's minority community, as well as minority communities across the country, will have fewer jobs, more unemployment, more hardship, more stress, less opportunity. In short, more of all the bad things that continue to ravage our inner cities.

Sincerely,

VENERABLE F. BOOKER,
President.

Mr. DOMENICI. Mr. President, the President has made community development an important priority with his initiative to create Community Development Financial Institutions. Secretary Cisneros has made reinventing HUD his mission.

While I support the creation of community development financial institutions and I wholeheartedly agree that HUD needs to be reinvented, my top priority as a member of the Housing Subcommittee is helping the South Valley of Bernillio County, New Mexico.

In the Housing, Banking and Urban Affairs Committee we spend a great deal of time working on ways to foster greater community development, and improved housing conditions for our Nation's people.

The Senate Housing Banking and Urban Committee spends a lot of time working on programs to increase the quality of life in our neighborhoods. These are the very same objectives I have for the South Valley.

The leadership of the Senate Banking Committee has been very committed and has gone the extra mile to help me.

There is a moratorium on building multifamily housing in this community until the water and sewage problem is corrected.

The situation is so bad there is almost a daily story in the New Mexico newspapers.

The headline on October 16: "South Valley Residents Blame Water for Girl's Illness."

The headline on October 18: "Residents learn to Live in Sewage."

The headline on October 30: "Living in a Cesspool."

Other recent headlines, "Girl's Illness may Remain Mystery"; "Pools of "Gray Water" surround Girl's Mobile Home"; "State seeks more extensive tests on the water from ill girl's house."

If you lived in this neighborhood, your drinking water well is probably on top of your next door neighbor's septic tank leach field.

In addition to the obvious health hazard, your drinking water is sewage scented.

You would live with murky pools of water in your yard. Your vegetable garden and flower garden struggle to co-exist with raw sewage. In addition to digging holes to plant tomatoes and peppers, sometimes you would have to dig a hole to bury a neighbor's overflowing sewage.

There is often a shortage of water so your daily shower is often cut short.

One of the provisions in this bill will authorize some of the money needed to improve the housing stock infrastructure and fund a waste water treatment and drinking water improvement program.

For almost 30 years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock of the area.

This community has been untiring in its efforts to help itself. So many times, its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for 9½ years to develop an action plan to address this problem.

There have been a few successes at the local level which include the following: The Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley to finance solid waste, water and sewer. The city of Albuquerque, in partnership with Bernalillo County, has contributed its sources in the areas of research planning and education. The University of New Mexico—Institute of Public Law—provided a joint study for the New Mexico Legislature which led to an appropriation of funds for this project. These funds must be spent by the end of 1994. This additional deadline makes timing critical to create this worthy partnership which would use local, State and Federal resources.

This authorization if it is enacted into law, will end 30 years of frustration, denial and avoidable health problems in this community.

Today, the Congress will be helping to make a better neighborhood and

provide better housing conditions for the South Valley. Because of the conditions of the soil, the community is going to use technology that may be useful in other communities.

I want to thank Senate Housing, Banking and Urban Affairs Chairman RIEGLE and ranking member, Senator D'AMATO. I also appreciate the support of Senator SARBANES and Senator BOND who are the chairman and ranking member of the Housing Subcommittee. And I would be remiss if I didn't thank their staffs for all the help in getting this provision passed.

A second provision of this bill will allow the Department of Energy Bank Deposit Financial Assistance Program to continue.

The Department of Energy will begin terminating $186 million low-cost, stable deposits in more than 109 minority-owned banks serving inner-city communities and minority communities across the United States unless this bill is enacted by December 20, 1993.

The Department of Energy, since 1980, has assisted minority and women-owned financial institutions through its Bank Deposit Financial Assistance Program.

The program involves intermediary banks depositing funds in minority and women-owned banks in revocable trusts "petroleum violation escrow funds"—petroleum company overcharges.

The FDIC insures each trust separately up to $100,000. With each separate 6 month revocable trust deposit totaling $95,000, the safety of all the BDFAP funds has been assured.

Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA] eliminates the insurability of funds held in revocable trusts effective December 20, 1993.

FDICIA, aiming to reduce FDIC risk unintentionally caught up the Department of Energy's Bank Deposit Financial Assistance Program.

Energy Secretary O'Leary want the program to continue.

The bill would permit continuation and expansion of this program.

This program meets the capital needs and has a proven track record to spur competitive development in their communities.

It has proven a successful government economic assistance targeting inner cities and minority communities at no cost to the taxpayer.

Institutions in New Mexico benefiting from this program include: Dona Ana Savings and Loan in Las Cruces, and El Pueblo State Bank, Espanola.

There are 109 minority banks through 32 "trustee" banks.

I want to compliment my colleague, Senator MOSELEY-BRAUN for her interest in getting this bill passed.

UNDERCHARGE EQUITY ACT OF 1992

Mr. BAUCUS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 412), a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 412) entitled "An Act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes", do pass with the following Amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Negotiated Rates Act of 1993".

SEC. 2. PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.

(a) IN GENERAL.—Section 10701 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.—

"(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of paragraph (2), (3), or (4) of this subsection, upon showing that—

"(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this subsection; and

"(B) with respect to the claim—

"(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Commission for the transportation service;

"(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(iii) the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

"(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under subparagraph (A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under subparagraph (B), such dispute shall be resolved by the Commission. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under paragraph (2), (3), or (4) of this subsection shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title.

"(2) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(3) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(4) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding paragraphs (2) and (3), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(5) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of paragraph (2), (3), or (4), the person may pursue all rights and remedies existing under this title.

"(6) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in paragraph (1) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Commission has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Except as authorized in paragraphs (2), (3), (4), and (9) of this subsection, nothing in this subsection shall relieve a motor common carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762 of this title.

"(8) NOTIFICATION OF ELECTION.—

"(A) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under paragraph (2), (3), or (4). Except as provided in subparagraphs (B), (C), and (D), such election may be made at any time.

"(B) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially

demands the payment of additional freight charges after the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7) at the time of the making of such initial demand, the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(C) PENDING SUITS FOR COLLECTION MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before or on the date of the enactment of this subsection, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the 90th day following the date on which such notification is received.

"(D) DEMANDS FOR PAYMENT MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before or on the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(9) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding paragraphs (2), (3), and (4), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials, as defined in section 10733.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking "In" and inserting "Except as provided in subsection (f), in".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) of this section shall apply to all claims pending as of the date of the enactment of this Act and to all claims arising from transportation shipments tendered on or before the last day of the 24-month period beginning on such date of enactment.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Interstate Commerce Commission shall transmit to Congress a report regarding whether there exists a justification for extending the applicability of amendments made by subsections (a) and (b) of this section beyond the period specified in subsection (c).

(e) ALTERNATIVE PROCEDURE FOR RESOLVING DISPUTES.—

(1) GENERAL RULE.—For purposes of section 10701 of title 49, United States Code, it shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service provided before September 30, 1990, the difference between the applicable rate that is lawfully in effect pursuant to a tariff that is filed in accordance with chapter 107 of such title by the carrier or freight forwarder applicable to such transportation service and the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 10521(a)(1) of such title or is transporting property between places described in section 10521(a)(1) of such title for the purpose of avoiding the application of this subsection.

(2) JURISDICTION OF COMMISSION.—The Commission shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under paragraph (1). If the Commission determines that attempting to charge or the charging of the rate is an unreasonable practice under paragraph (1), the carrier, freight forwarder, or party may not collect the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Commission shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Commission for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(3) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this subsection to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in paragraph (1) to attempt to charge or to charge the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Commission has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(4) TREATMENT.—Paragraph (1) of this subsection is enacted as an exception, and shall be treated as an exception, to the requirements of sections 10761(a) and 10762 of title 49, United States Code, relating to a filed tariff rate for a transportation or service subject to the jurisdiction of the Commission and other general tariff requirements.

(5) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of paragraph (1) with respect to a rate for a transportation or service, section 10701(f) of title 49, United States Code, as added by subsection (a) of this section, shall not apply to such rate.

(6) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) COMMISSION, HOUSEHOLD GOODS, HOUSEHOLD GOODS FREIGHT FORWARDER, AND MOTOR CARRIER.—The terms "Commission", "household goods", "household goods freight forwarder", and "motor carrier" have the meaning such terms have under section 10102 of title 49, United States Code.

(B) NEGOTIATED RATE.—The term "negotiated rate" means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder described in paragraph (1) and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed with the Commission and for which there is written evidence of such agreement.

(f) PRIOR SETTLEMENTS AND ADJUDICATIONS.—Any claim that, but for this subsection, would be subject to any provision of this Act (including any amendment made by this Act) and that was settled by mutual agreement of the parties to such claim, or resolved by a final adjudication of a Federal or State court, before the date of the enactment of this Act shall be treated as binding, enforceable, and not contrary to law, unless such settlement was agreed to as a result of fraud or coercion.

(g) RATE REASONABLENESS.—Section 10701(e) of title 49, United States Code, is amended by adding at the end the following: "Any complaint brought against a motor carrier (other than a carrier described in subsection (f)(1)(A)) by a person (other than a motor carrier) for unreasonably high rates for past or future transportation shall be determined under this subsection.".

SEC. 3. STATUTE OF LIMITATIONS.

(a) MOTOR CARRIER CHARGES.—Section 11706(a) of title 49, United States Code, is amended by striking the period at the end and inserting the following: "; except that a motor carrier (other than a motor carrier providing transportation of household goods) or freight forwarder (other than a household goods freight forwarder)—

"(1) must begin such a civil action within 2 years after the claim accrues if the transportation or service is provided by the carrier in the 1-year period beginning on the date of the enactment of the Negotiated Rates Act of 1993; and

"(2) must begin such a civil action within 18 months after the claim accrues if the transportation or service is provided by the carrier after the last day of such 1-year period.".

(b) MOTOR CARRIER OVERCHARGES.—Section 11706(b) of title 49, United States Code, is amended by striking ". If that claim is against a common carrier" and inserting the following: "; except that a person must begin a civil action to recover overcharges from a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for transportation or service—

"(1) within 2 years after the claim accrues if such transportation or service is provided

in the 1-year period beginning on the date of the enactment of the Negotiated Rate Act of 1993; and

"(2) within 18 months after the claim accrues if such transportation or service is provided after the last day of such 1-year period. If the claim is against a common carrier".

(c) CONFORMING AMENDMENT.—Section 11706(d) of title 49, United States Code, is amended—

(1) by striking "3-year period" each place it appears and inserting "limitation periods";

(2) by striking "is extended" the first place it appears and inserting "are extended"; and

(3) by striking "each".

SEC. 4. TARIFF RECONCILIATION RULES FOR MOTOR CARRIERS OF PROPERTY.

(a) IN GENERAL.—Chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"§ 11712. Tariff reconciliation rules for motor common carriers of property

"(a) MUTUAL CONSENT.—Subject to Commission review and approval, motor carriers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with sections 10761 and 10762 of this title. Resolution of such claims among the parties shall not subject any party to the penalties of chapter 119 of this title.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall relieve the motor carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762, except as provided in subsection (a) of this section.

"(c) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this section, the Commission shall institute a proceeding to establish rules pursuant to which the tariff requirements of sections 10761 and 10762 of this title shall not apply under circumstances described in subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"11712. Tariff reconciliation rules for motor common carriers of property.".

SEC. 5. CUSTOMER ACCOUNT CODES AND RANGE TARIFFS.

(a) CUSTOMER ACCOUNT CODES.—Section 10762 of title 49, United States Code, is amended by adding at the end the following:

"(h) CUSTOMER ACCOUNT CODES.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that a numerical or alpha account code is used in such tariff to designate customers or to describe the applicability of rates. For transportation performed on and after the 180th day following such date of enactment, the name of the customer for each account code must be set forth in the tariff (other than the tariff of a motor carrier providing transportation of household goods).".

(b) RANGE TARIFFS.—Such section is further amended by adding at the end the following:

"(i) RANGE TARIFFS.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that the tariff does not show a specific rate or discount for a specific shipment if the tariff is based on a range of rates or discounts for specific classes of shipments. For transportation performed on or after the 180th day following such date of enactment, such a range tariff must identify the specific rate or discount from among the range of rates or discounts contained in such range tariff which is applicable to each specific shipment or must contain an objective means for determining the rate.".

SEC. 6. CONTRACTS OF MOTOR CONTRACT CARRIERS.

(a) IN GENERAL.—Section 10702 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) CONTRACTS OF CARRIAGE FOR MOTOR CONTRACT CARRIERS.—

"(1) GENERAL RULE.—A motor contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall enter into a written agreement, separate from the bill of lading or receipt, for each contract for the provision of transportation subject to such jurisdiction which is entered into after the 90th day following the date of the enactment of this subsection.

"(2) MINIMUM CONTENT REQUIREMENTS.—The written agreement shall, at a minimum—

"(A) identify the parties thereto;

"(B) commit the shipper to tender and the carrier to transport a series of shipments;

"(C) contain the contract rate or rates for the transportation service to be or being provided; and

"(D)(i) state that it provides for the assignment of motor vehicles for a continuing period of time for the exclusive use of the shipper; or

"(ii) state that it provides that the service is designed to meet the distinct needs of the shipper.

"(3) RETENTION BY CARRIER.—All written agreements entered into by a motor contract carrier under paragraph (1) shall be retained by the carrier while in effect and for a minimum period of 3 years thereafter and shall be made available to the Commission upon request.

"(4) RANDOM AUDITS BY COMMISSION.—The Commission shall conduct periodic random audits to ensure that motor contract carriers are complying with this subsection and are adhering to the rates set forth in their agreements.".

(b) CIVIL PENALTY.—Section 11901(g) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) by striking "or (5)" and inserting "(5) does not comply with section 10702(c) of this title, or (6)".

(c) CRIMINAL PENALTY.—Section 11909(b) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) in clause (1) by inserting after "make that report" the following: "or willfully does not enter into or retain that agreement".

SEC. 7. BILLING AND COLLECTING PRACTICES.

(a) IN GENERAL.—Subchapter IV of chapter 107 of title 49, United States Code, is amended by adding at the end the following:

"§ 10767. Billing and collecting practices

"(a) REGULATIONS LIMITING REDUCED RATES.—Not later than 120 days after the date of the enactment of this section, the Commission shall issue regulations that prohibit a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title from providing a reduction in a rate set forth in its tariff or contract for the provision of transportation of property to any person other than (1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract, or (2) an agent of the person paying for the transportation.

"(b) DISCLOSURE OF ACTUAL RATES, CHARGES, AND ALLOWANCES.—The regulations of the Commission issued pursuant to this section shall require a motor carrier to disclose, when a document is presented or transmitted electronically for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for the transportation service and shall prohibit any person from causing a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. Where the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier for the payment that a reduction, allowance, or other adjustment may apply.

"(c) PAYMENTS OR ALLOWANCES FOR CERTAIN SERVICES.—The regulations issued by the Commission pursuant to this section shall not prohibit a motor carrier from making payments or allowances to a party to the transaction for services that would otherwise be performed by the motor carrier, such as a loading or unloading service, if the payments or allowances are reasonably related to the cost that such party knows or has reason to know would otherwise be incurred by the motor carrier.".

(b) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following new item:

"10767. Billing and collecting practices.".

(c) VIOLATION.—

(1) IN GENERAL.—Section 11901 of such title is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following:

"(l) RATE DISCOUNTS.—A person, or an officer, employee, or agent of that person, that knowingly pays, accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 10767 of this title is liable to the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation. Notwithstanding any other provision of this title, the express civil penalties and damages provided for in this subsection are the exclusive legal sanctions to be imposed under this title for practices found to be in violation of the regulations issued under section 10767 and such violations do not render tariff or contract provisions void or unenforceable.".

(2) VENUE.—Section 11901(m)(2) of such title (as redesignated by paragraph (1)) is amended by striking "or (k)" and inserting "(k), or (l)".

SEC. 8. RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.

Section 11101 of title 49, United States Code, is amended by adding at the end the following:

"(d) RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.—If a motor carrier (other than a motor carrier providing transportation of household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation is provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Commission shall have jurisdiction to, and shall, resolve the dispute.".

SEC. 9. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act (including any amendment made by this Act) shall be construed as limiting or otherwise affecting application of title 11, United States Code, relating to bankruptcy; title 28, United States Code, relating to the jurisdiction of the courts of the United States (including bankruptcy courts); or the Employee Retirement Income Security Act of 1974.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I am pleased that the Senate is considering final passage of S. 412, the Undercharge Equity Act of 1993. Legislation addressing the "undercharge" litigation crisis is not new: in July of this year the Senate passed S. 412, reported by the Commerce Committee on May 25, 1993. That measure was similar to S. 1675, the Undercharge Equity Act of 1992, which passed the Senate unanimously in the last Congress, but which the House did not consider prior to adjournment.

Over the past 3 years, since the Supreme Court's Maislin decision in 1990, the chairman of the Commerce Committee's Surface Transportation Subcommittee, Senator EXON, and others have worked to forge a bipartisan consensus on this legislation. The legislation we consider today incorporates the text of H.R. 2121, the House undercharge companion measure, which the House passed by a vote of 292 to 116 on November 15, 1993.

As the Commerce Committee has recognized for some time, the undercharge crisis reflects a broad spectrum of efforts by trustees for bankrupt motor carriers to collect from shippers additional payments for shipments which moved and were paid for years ago. I recognize the compelling nature of the unsecured claims of former drivers of now bankrupt trucking companies seeking unpaid wages, the pension funds left with unfunded liabilities, and the demands of other creditors. At the same time, the continually escalating undercharge litigation and collection spiral serves no useful purpose, and makes clear the long overdue need for a legislative solution to this problem. The Senate recognized this mandate for action in passing equitable undercharge resolution legislation in this Congress and in the last Congress. Now that the House also has acted, we have an opportunity to consider this measure for final passage in the 103rd Congress.

S. 412, as amended by the House, makes a number of changes in the legislation as passed by the Senate. Under the bill as amended, shippers may settle an eligible undercharge claim for 15 or 20 percent of the amount sought, depending upon the type of shipment (or 5 percent where a warehouseman is involved). Small businesses, charitable organizations, and recyclers (which includes recyclers of rubber) would be exempt from applicable undercharge claims. In addition, shippers facing an undercharge claim for transportation provided before September 1990 (when the Maislin case reversed five U.S. Circuit Courts of Appeal) would be permitted to argue before the Interstate Commerce Commission that the undercharge collection effort was an unreasonable practice. Other options for shippers, including pursuing existing legal rights and remedies, would be preserved.

In addition, S. 412 as amended incorporates other provisions addressing principally the legality and future requirements with regard to range rates, contract rates, coded rates, and accounting and collection practices. The legislation further addresses questions concerning unreasonable rates of operating motor carriers.

The legislation before us today represents a fair and equitable solution to the undercharge litigation problem gripping businesses across the country. I urge my colleagues to join me in voting for passage of this important and necessary legislation.

Mr. DANFORTH. Mr. President, today we may finally bring to an end an expensive nuisance for America's businesses that has resulted from the continued enforcement of outdated laws. Last fall, 60 Minutes ran a story entitled "You're Kidding." This story involved interviews with small businessmen hit with large freight bills related to shipments for which they had paid years ago. These shippers were asking how this could happen.

The answer requires a review of the law governing motor carriers' movement of freight. The Motor Carrier Act of 1980 substantially deregulated the trucking industry by eliminating most price and entry requirements. One significant regulation retained was the requirement that trucking companies file with the Interstate Commerce Commission [ICC] all tariffs governing shipments. Since enactment of the 1980 act, however, carriers have frequently negotiated lower rates with shippers but have not filed those rates with the ICC. In 1990, the Supreme Court, in Maislin Industries versus Primary Steel, held that shippers are required to pay the filed rate when the shipper and carrier have privately negotiated a lower rate, regardless of the equities involved. The trustees of bankrupt trucking companies that had negotiated such rates are now suing shippers for the difference. These suits are being brought years after payment for and delivery of the shipments.

Let me use a hypothetical to illustrate the absurdity of this situation. In my example, you bought a discounted airline ticket from Pam Am several years ago for $300. Subsequently, Pan Am liquidates. Pan Am's bankruptcy trustee notifies you that the nondiscounted price of the ticket you purchased was $600. The trustee says that Pan Am was supposed to file the discounted ticket price, $300, with a government agency, but he failed to do so. Thus, Pan Am's trustee says that you owe the difference between the agreed upon price and the nondiscounted fare. The bottom line is that those who are suffering are the ones who made a deal and fulfilled their obligations.

This problem spares no shipper no matter how noble its effort. In recent months, organizations such as the Red Cross, that use trucks to ship emergency relief supplies, have been hit with these unexpected bills.

The Maislin case has placed a heavy burden on many of our Nation's small businesses. In some instances, these suits are causing small businesses to enter bankruptcy. The ICC estimates that these claims may be worth $32 billion. The beneficiaries are not, however, the creditors or pension funds of the bankrupt carriers. According to the ICC, the attorneys and collection agents who have devised the rebilling suits collect between 55 percent and 80 percent of the proceeds.

Mr. President, today we are considering the House-passed version of undercharge legislation. This bill establishes settlement formulas for a variety of situations. Different approaches are taken with respect to truckload and less than truckload shipments, since carriers usually give shippers larger discounts on truckload shipments.

Claims relating to truckload shipments may be settled by simply paying 15 percent of the claimed undercharge. Claims relating to less than truckload shipments may be settled by paying 20 percent of the claimed undercharge. Furthermore, the legislation makes a distinction on the basis of the size of the shipper, totally exempting small shippers from undercharge claims. In addition, the bill exempts charitable organizations from these claims. Also, no claim is valid if it relates to transportation performed prior to the Supreme Court's Maislin decision.

This legislation also preserves a shipper's right to pursue an ICC determination of the reasonableness of the rate charged, if a shipper elects not to use the settlement formulas. It also eliminates lawsuits that bankruptcy trustees have brought to collect money from shippers related to code and range tariffs.

This legislation is the result of negotiations that have occurred over the last two Congresses. Although the Senate has reported legislation on three occasions to remedy this problem, this is the first opportunity we have had to send a bill to the President for signature.

Mr. President, I urge my colleagues to support this legislation to remedy a problem that is hurting thousands of small businesses around the country.

Mr. BAUCUS. Mr. President, I move that the Senate concur en bloc to the amendments of the House.

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

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

So the motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAUCUS. I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Order Nos. 291, 292, and 293; that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times, passed, and the motions to reconsider laid upon the table en bloc; and further, that the consideration of these items appear individually in the RECORD, and any statements relative to the calendar items appear at the appropriate place in the RECORD.

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

LECHUGUILLA CAVE PROTECTION ACT OF 1993

The Senate considered the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, FINDING, AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lachuguilla Cave Protection Act of 1993".

SEC. 2. FINDINGS.

Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled "Lechuguilla Cave Protection Area" numbered 130/80,055 and dated April 1993.

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

(b) NO EFFECT ON PIPELINES.—Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act; Provided, that no funds shall be made available except to the extent, or in such amounts as are provided in advance in Appropriation Acts.

So the bill (H.R. 698) was passed.

DESIGNATING THE RED RIVER AS PART OF THE WILD AND SCENIC RIVER SYSTEM

The bill (H.R. 914) to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers Systems, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MCCONNELL. Mr. President, anyone who has ever visited eastern Kentucky can testify to its rich natural beauty. But the residents of Powell, Wolfe, and Menifee Counties have long known about a special river that could be called the crown jewel of Kentucky's Daniel Boone National Forest. I am very proud to rise today in support of legislation that will protect this unique and unspoiled river so that it may inspire future generations as it has those of the past.

While it is not well known outside of my State, the Red River Gorge has been a source of pride for Kentuckians for generations. The gorge has rugged towering cliffs ascending from the edge of the Red River. Small streams rush down these steep cliffs to the river below. Taking millions of years to form, its cavernous overhangs made visitors take stock of the awesome hand of God, and the temporal nature of humans on this planet. The numerous natural bridges and the surrounding Clifty Wilderness have attracted outdoor enthusiasts from all over the Commonwealth.

The Red River provides recreational opportunities unique to the Eastern United States. Canoeing down the river as a young man, I quickly came to understand its unique place in the psyche of all Kentuckians. Portions of the river have crashing white waters that would cause even the experienced canoeist to take pause. Other stretches softly roll through enormous rock formations that dwarf passersby.

In addition to the gorge's irreplaceable geological value, the Red River is replete with a wide array of flora and fauna. The gorge has many ecological niches that provide ideal habitat for

various species of birds, trees, shrubs, and flowers. Wildflowers are rampant throughout the area including blue violets, asters, foxgloves, and wild roses.

Native Americans discovered the gorge long before European settlers arrived in the New World. Rock shelters protected them from the elements and offered defense from hostile forces. During the Civil War, local residents mined nitrate from the gorge's jagged dens. The area was heavily logged near the turn of the century, but, slowly, it has grown back to its past rich texture of trees. It wasn't until 1934 that the U.S. Forest Service began purchasing land around the gorge in what is now a part of the Daniel Boone National Forest.

Today, the river links cohesive rural communities comprised of small family farms that exist tranquilly with the spectacular natural beauty of the waterway. The area harkens back to a simpler time before the bustle and noise of sprawling urbanization drowned out the quiet simplicity of rural America.

But it was not always so tranquil. Back in 1954, when a dam was proposed to create a Red River Lake, many local residents rose up in strong opposition, and in favor of protecting the gorge. Since then, controversial plans to build the dam have been delayed. By 1978, Congress called for a study of the river to be included in the National Wild and Scenic Rivers System, buying precious time for those who took up the cause of protecting the gorge. Finally, on January 7 of this year, after extensive study by the U.S. Forest Service, President Bush recommended that 19.4 miles of the Red River be designated as a national wild and scenic river to protect forever its unimpeded flow. Shortly thereafter, I introduced legislation to protect the Red River under the Wild and Scenic Rivers Act.

I am very pleased that the Senate Energy Committee moved quickly in conducting hearings and marking up legislation that does not significantly depart from my original bill. I firmly believe the bill before us is in the best long-term interest of the gorge, the river, and the citizens of Wolfe, Menifee, and Powell Counties. It will put to an end plans to flood the irreplaceable gorge, and will ensure the free flowing condition of this unbridled waterway. By adding the Red River to the National Wild and Scenic Rivers System, hikers, campers, canoeists, and other outdoor enthusiasts will always be able to enjoy its rugged and awesome beauty.

Initially, I had reservations about adding the Red River to National Wild and Scenic Rivers System. I was troubled that overzealous efforts to protect the river could preclude public enjoyment of this wonderful resource. I feared the local agricultural economy could be adversely affected if the river was indiscriminately locked up forever. I was also concerned that this Federal designation would violate the constitutional rights of nearby landowners by preventing use of land without full and fair compensation. Since these concerns have been allayed, I have been working diligently for Federal protection of the Red River.

Although landowners along the gorge are afforded significant protections by the Wild and Scenic Rivers Act, I felt the need to include additional safeguards to ensure the protection of private property rights. While lands protected river corridors have been known to increase in value, the Wild and Scenic Rivers Act allows federal acquisition of protected lands that could potentially leave private holdings unmarketable. The bill before us includes additional protections by limiting the acquisition of scenic easements that would effect any regular use of surrounding lands.

The national wild and scenic designation for the Red River allows for the development of recreational facilities as a part of the environmentally responsible management of the overall river ecosystem. Eco-tourism, as it is now called, is big business. Long-term protection of the Red River Gorge will provide a promising and sustainable economic future for the residents of the tricounty area. The potential for canoe excursions, guided tours, and interpretive centers will help support the local economy.

Small family farms dot the landscape around the river. For years, the rural farming communities of Powell, Menifee, and Wolfe Counties have played a critical role in protecting the Gorge. They must continue to be actively involved so that the intricate balance that has been achieved between protecting the river and maintaining a healthy rural economy will continue undisturbed.

Mr. President, a diverse array of citizens and grassroots organizations support the designation of the Red River as a national wild and scenic river. This proposal has been endlessly studied and debated.

With the Senate's approval today, we send to the President more than just a bill, we send him a promise: A promise that the Red River Gorge will remain forever as it always has been. I urge my colleagues to join me today in support of the Red River Designation Act.

DESIGNATING THE MAURICE RIVER AS PART OF THE WILD AND SCENIC RIVERS SYSTEM

The bill (H.R. 2650) to designate the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems was considered, ordered to a third reading, read the third time, and passed.

Mr. BRADLEY. Mr. President, I am very pleased that, today, the Senate has passed the South Jersey Wild and Scenic River Act. This legislation designates some 35 miles of the Maurice River and its tributaries as national wild and scenic rivers. With this bill, we bring to a close a legislative process begun in 1987. From start to finish, this process has been driven by the desires and needs of the affected communities. There are many, many citizens who deserve enormous credit. In the House, especially, Congressman HUGHES has been a true leader and he deserves acknowledgment for all he has accomplished.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It is a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been here. But they will continue to be here only because the citizens of this area decide positively that they commit themselves to a pristine future for the river.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, et cetera. Repeatedly, I have pledged to work with the communities to address these concerns and reduce them. Now, it will be up to all of us to see that the many fears aren't realized while the enormous promise is.

The towns involved have all endorsed this legislation. Many of the industries in the area support it. I especially commend the Atlantic City Electric Co., which has major land holdings in the area. In the end, they supported this bill as well. They are concerned that wild and scenic river States will interfere with or prevent the maintenance and care of their existing facilities and rights-of-way. This is not at all an intended result of the legislation. The Park Service has documented the many attributes of these rivers and these features exist notwithstanding

the presence of the Atlantic Electric facilities.

Wild and scenic river statutes will not destroy the prospects of those who live, work, or own property along these rivers. On the contrary, their prospects will be enhanced and preserved. For everyone in these communities, the rivers provide a constant of natural beauty. It's always been this way. And, with this new land, it always will be this way.

VEGETABLE INK PRINTING ACT OF 1993

Mr. BAUCUS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 278, S. 716, a bill to require the use of vegetable oil ink for all Federal lithographic printing; that the committee substitute amendment be agreed to; that the bill be read a third time and passed, the motion to reconsider laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

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

The Senate considered the bill (S. 716) to require that all Federal lithographic printing be performed using ink made from vegetable oil and matrials derived from other renewable resources, and for other purposes, which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vegetable Ink Printing Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than 95 percent of Federal printing involving documents or publications is performed using lithographic inks;

(2) various types of oil, including petroleum and vegetable oil, are used in lithographic ink;

(3) increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products;

(4) the technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink;

(5) some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently begun to use vegetable oil;

(6) according to the Government Printing Office, using vegetable-based ink appears to add little if any additional cost to Government printing;

(7) use of vegetable-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable-base ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable ink.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) DEFINITION.—In this section, "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

(b) VEGETABLE-BASED INKS.—

(1) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 180 days after the date of enactment of this Act, all lithographic printing performed or procured by a Federal agency that uses oil in its ink shall use the maximum amount of vegetable oil and materials derived from other renewable resources that are technologically feasible and result in printing costs that are cost-competitive with printing using petroleum-based inks.

(2) MINIMUM PERCENTAGES.—Except as provided in paragraph (3), in no event shall a Federal agency use any ink that contains less than the following percentages of vegetable oil in its ink used for lithographic printing:

(A) In the case of news inks, 40 percent.

(B) In the case of sheet-fed inks, 20 percent.

(C) In the case of forms inks, 20 percent.

(D) In the case of heat-set inks, 10 percent.

(3) SUSPENSION OF EFFECTIVENESS OF PARAGRAPH (2).—(A) At any time at which a Federal agency determines that the cost of printing with vegetable-based ink is significantly greater than the cost of printing with petroleum-based ink, the Federal agency may perform or procure lithographic printing using ink that contains less than the percentages of vegetable oil in its ink than those specified in paragraph (a) until such times as the cost of printing with vegetable-based ink is not significantly greater than the cost of printing with petroleum-based ink.

(B) A determination made under subparagraph (A) shall be reviewed—

(i) at least once every quarter, for the performance or procurement of printing of materials that are printed on a regular basis; and

(ii) prior to performing or procuring the printing of particular material of significant size that is printed once or is printed at intervals of 6 months or more.

The title was amended so as to read: "A bill to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.".

So the bill (S. 716), as amended, was passed.

BILL READ THE FIRST TIME—H.R. 881

Mr. BAUCUS. Mr. President, I understand that the Senate has received from the House H.R. 881, a ban on smoking in Federal buildings. On behalf of Senator LAUTENBERG, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 881) to prohibit smoking in Federal buildings.

Mr. BAUCUS. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, on behalf of Senator FORD, I object.

The PRESIDING OFFICER. I thank the Senator.

Objection is heard.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1993

Mr. BAUCUS. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 275, S. 1299, a bill to reform the requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1299) 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.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing and Community Development Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—FHA MULTIFAMILY REFORMS

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. RTC marketing and disposition of multifamily projects owned by HUD.
Sec. 104. Civil money penalties against general partners and certain managing agents of multifamily housing projects.
Sec. 105. Models for property disposition.
Sec. 106. Preventing mortgage defaults.
Sec. 107. Interest rates on assigned mortgages.
Sec. 108. Authorization of appropriations.

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

Sec. 201. Revitalization of severely distressed public housing.

Sec. 202. Disallowance of earned income for residents who obtain employment.
Sec. 203. Ceiling rents based on reasonable rental value.
Sec. 204. Resident management program.
Subtitle B—Office of Community Planning and Development
Sec. 211. Economic development initiative.
Sec. 212. HOME investment partnerships.
Sec. 213. HOPE match requirement.
Sec. 214. Flexibility of CDBG program for disaster areas.
Sec. 215. Flexibility of HOME program for disaster areas.
Subtitle C—Community Partnerships Against Crime
Sec. 221. COMPAC program.
TITLE III—TECHNICAL AND OTHER AMENDMENTS
Subtitle A—Public and Assisted Housing
Sec. 301. Correction to definition of family.
Sec. 302. Identification of CIAP replacement needs.
Sec. 303. Applicability of public housing amendments to Indian housing.
Sec. 304. Project-based accounting.
Sec. 305. Operating subsidy adjustments for anticipated fraud recoveries.
Sec. 306. Technical assistance for lead hazard reduction grantees.
Sec. 307. Environmental review in connection with grants for lead-based paint hazard reduction.
Sec. 308. Fire safety in federally assisted housing.
Sec. 309. Section 23 conversion projects.
Sec. 310. Indemnification of contractors for intellectual property rights disputes.
Subtitle B—Multifamily Housing
Sec. 321. Correction of multifamily mortgage limits.
Sec. 322. FHA multifamily risk-sharing; HFA pilot program amendments.
Sec. 323. Subsidy layering review.
Subtitle C—Rural Housing
Sec. 331. Technical correction to rural housing preservation program.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "FHA" means the Federal Housing Administration;

(2) the term "Secretary" means the Secretary of Housing and Urban Development; and

(3) the term "RTC" means the Resolution Trust Corporation.

TITLE I—FHA MULTIFAMILY REFORMS

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250 million in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, secured by projects with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million very low-income families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, shall balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project that is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act;

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8);

if (except for purposes of 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.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goals specified in subsection (a), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—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) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) or a formerly subsidized project that was subsidized as described in any such subparagraph—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C) of this paragraph;

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) that does not otherwise receive project-based rental assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions on these units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized project referred to in subsection (b)(2)(D) or a formerly subsidized project that was subsidized as described in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or that were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based rental assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in the number of units otherwise required to be assisted with project-based rental assistance under subparagraph (A) or (B) with at least an equivalent increase in the number of units made affordable, as such term is defined in paragraph (3)(B), to very low-income persons within unsubsidized projects;

"(ii) the Secretary makes tenant-based assistance under section 8 available to low-income tenants residing in units otherwise requiring project-based rental assistance under subparagraph (A) or (B) upon disposition; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions that are taken pursuant to subparagraph (C), in any unsubsidized project—

"(i) the contract shall be at least sufficient to provide project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition 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) 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 section 101 of the Housing and Urban Development Act of 1965; and

"(ii) the Secretary shall make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of unsubsidized multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is an adequate supply of habitable housing in the area that is available to and affordable by low-income families using such assistance. Actions may also be taken pursuant to this paragraph in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary in each fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraph (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons for the remaining useful life of the project, as defined by the Secretary.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based rental assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions required by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—Make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families that do not otherwise qualify for project-based rental assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be made available for uses other than rental or cooperative housing, including low-income homeownership opportunities, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed

of by the Secretary during each fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall—

"(i) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A); and

"(ii) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this subparagraph.

"(4) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects upon disposition to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(g) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—To the extent that units receive project-based rental assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the 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.

"(B) UP-FRONT GRANTS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to

"(i) provide project-based section 8 rental assistance; and

"(ii) provide up-front grants for the necessary costs of rehabilitation.

"(h) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities that represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly.

"(ii) TECHNICAL ASSISTANCE PROVIDERS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subparagraph. In addition, the Secretary is authorized to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, for the provision of technical assistance under this section.

"(i) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government and State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general 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 unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B) and has substantiated such interest if requested, the Secretary shall notify the unit of general local government or designated State agency, within a reasonable period of time, of the terms and conditions of the disposition plan, in accordance with subsection (h). The Secretary shall then give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—If the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e) or for an increase in the number of units that are available to and affordable by low-income families. If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase multifamily housing projects in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates 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.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure

that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage;

unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary that are secured by subsidized or formerly subsidized multifamily housing projects, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least 1 such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(l) PROJECT-BASED RENTAL ASSISTANCE FOR TERM OF LESS THAN 15 YEARS.—Notwithstanding subsection (g), project-based rental assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after the date of enactment of the Housing and Community Development Act of 1993 and actions taken in the years preceding such date of enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z–11 note) is hereby repealed.

SEC. 103. RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROJECTS OWNED BY HUD.

(a) AUTHORIZATION.—The Secretary may carry out a demonstration with not more than 50 unsubsidized multifamily housing projects owned by the Secretary, using the RTC for the marketing and disposition of the projects. Any such demonstration shall be carried out pursuant to an agreement between 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) RULES GOVERNING THE DEMONSTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out the provisions of this section, the RTC shall dispose of unsubsidized multifamily housing projects pursuant to the provisions of section 21A(c) of the Federal Home Loan Bank Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), a very low-income tenant currently residing in a unit otherwise required under subsection (e)(1)(D) of section 203 of the Housing and Community Development Amendments of 1978 to receive project-based rental assistance under section 8, shall upon disposition pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

(c) DETERMINATION OF PROJECTS INCLUDED.—In determining which projects to include in the demonstration, the Secretary and the RTC shall take into consideration—

(1) the prior experience of the RTC in disposing of other multifamily housing projects in the jurisdictions in which such projects are located; and

(2) such other factors as the Secretary and the RTC determine to be appropriate.

(d) REIMBURSEMENT.—The agreement entered into pursuant to subsection (a) shall provide that 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 projects to reimburse the RTC for its costs.

(e) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary and the RTC shall jointly submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives detailing the progress of the demonstration.

(2) FINAL REPORT.—Not later than 3 months after the completion of the demonstration, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the results of the demonstration and any recommendations for legislative action.

(f) TERMINATION.—The demonstration under this section shall not extend beyond the termination date of the RTC.

SEC. 104. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY HOUSING PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f-15) 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 subsection (c)—

(A) by striking the heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) the general partner of a partnership mortgagor of such property; or

"(iii) any agent employed to manage the property that has an identity of interest with the mortgagor or the general partner of a partnership mortgagor of such property.

"(B) VIOLATIONS.—A penalty may be imposed under this paragraph for knowingly and materially taking any of the following actions:";

(ii) in subparagraph (B), as redesignated, by redesignating subparagraphs (A) through (L) as clauses (i) through (xii), respectively; and

(iii) by adding after clause (xii), as redesignated, the following new clauses:

"(xiii) Failure 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.

"(xiv) Failure, by a mortgagor or 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."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)(1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(4) in subsection (d), by adding at the end the following new paragraph:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(7) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND CERTAIN MANAGING AGENTS"; and

(8) in subsection (j), by striking "all civil money" and all that follows through the period at the end and inserting the following: "the Secretary shall apply all civil money penalties collected under this section, or any portion of such penalties, to the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of this Act; and

(2) in the case of a continuing violation (as determined by the Secretary), any portion of a violation that occurs on or after such date.

SEC. 105. MODELS FOR PROPERTY DISPOSITION.

The Federal Housing Commissioner shall develop models which shall be designed to assist States and units of general local government in using other Federal programs for the purpose of acquiring, rehabilitating, or otherwise participating in—

(1) the disposition, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects owned by the Secretary; or

(2) the sale, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects subject to mortgages held by the Secretary.

SEC. 106. PREVENTING MORTGAGE DEFAULTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended by adding at the end the following: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 17152-1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) provide the owner with a reasonable amount of time to resubmit an amended assessment; and

"(B) indicate to the owner the portion of the original assessment requiring completion or other revision.".

(4) REPEAL OF NOTICE PROVISION.—Section 404(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is hereby repealed.

(5) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(2)) is amended by striking ", except that" and all that follows through "such loan".

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z-1a(n)) is amended to read as follows:

"(n)(1) For fiscal year 1994 only, in providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) The Secretary may make exceptions to selection criteria set forth in paragraph (2) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be

involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).".

(c) IMPLEMENTATION AND EFFECTIVE DATE FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(2) CONTENTS.—The notice and the regulations shall describe the method by which the Secretary allocates assistance in accordance with section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act) and paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(3) ANNUAL PUBLICATIONS.—The Secretary shall publish annually in the Federal Register—

(A) the method by which the Secretary determines which capital needs assessments will be received each year, in accordance with sections 402(b) and 404(d) of the Housing and Community Development Act of 1992; and

(B) a list of all owners of covered multifamily housing projects, by project, that have received funding under—

(i) section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act); or

(ii) paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall take effect for amounts made available for fiscal year 1995.

(B) EXCEPTION.—Notwithstanding subparagraph (A), section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by subsection (b)(3)) shall take effect on the date of enactment of this Act.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) PARTIAL PAYMENTS OF CLAIM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project, as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(A) accept partial payment of the claim under the mortgage insurance contract; and

(B) recast the mortgage, under such terms and conditions as the Secretary may determine.

(2) CONDITION.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) GAO STUDY ON PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(g) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(h) ANNUAL ACTUARIAL REVIEW.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z–3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) ANNUAL ACTUARIAL REVIEW.—The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(i) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice and comment from existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary shall—

(A) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to paragraph (1); and

(B) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this paragraph.

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(j) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships between public, private, and nonprofit entities.

(k) NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.—

(1) FUNCTIONS.—Section 543(e)(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) make available appropriate information to the Department of Housing and Urban Development that will assist in preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.".

(2) USE OF APPROPRIATIONS AUTHORITY.—Section 543(h) of the Housing and Community Development Act of 1992 is amended by inserting after the first sentence the following: "The Secretary may use any non-Federal or private funding or may use the authority provided for salaries and expenses in appropriations Acts for activities carried out under this section.

SEC. 107. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C.

1715z-3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 106(h)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"SEC. 541. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1994 and $360,500,000 for fiscal year 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

SEC. 201. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

(a) IN GENERAL.—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) by amending subsection (b) to read as follows:

"(b) [RESERVED].";

(2) in subsection (c)(2), by striking "$200,000" and inserting "$500,000";

(3) in subsection (c)(3)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively;

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) planning for community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);"; and

(C) in subparagraph (H), as redesignated, by striking "designing a suitable replacement housing plan," and inserting "designing suitable relocation and replacement housing plans,";

(4) in subsection (c)(4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service planning activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(5) in subsection (c)(5)—

(A) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), accordingly;

(B) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the stock of the public housing agency as a whole"; and

(C) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(6) in subsection (d)(2)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (G) through (K), respectively;

(B) by inserting after subparagraph (D) the following new subparagraphs:

"(E) community service activities to be carried out by residents, 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;"; and

(C) in subparagraph (K), as redesignated—

(i) by striking "15 percent" and inserting "20 percent"; and

(ii) by inserting before the period at the end the following: ", except 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 (which 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)";

(7) in subsection (d)(3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(8) in subsection (d)(4)—

(A) in subparagraph (D), by inserting "(with assistance from the Department of Housing and Urban Development if necessary)" after "applicant";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the applicant's stock as a whole"; and

(D) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(9) in subsection (e), by adding at the end the following new paragraph:

"(3) DEMOLITION AND REPLACEMENT.—

"(A) IN GENERAL.—Notwithstanding any other applicable law or regulation, a revitalization plan under this section may include demolition and replacement on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort.

"(B) TENANT-BASED ASSISTANCE.—Notwithstanding the limitations contained in subparagraph (A)(v) or (C) of section 18(b)(3), a public housing agency may replace not more than one-third of the units demolished or disposed of through a revitalization project under this section with tenant-based assistance under section 8.";

(10) in subsection (h)—

(A) by amending paragraph (5) 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—

"(A) that requires major redesign, reconstruction, 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) that either—

"(i)(I) is occupied predominantly by families with children that 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) that has a vacancy rate, as determined by the Secretary, of 50 percent or more;

"(C) that 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) that, 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."; and

(B) by adding at the end the following new paragraphs:

"(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.

"(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. Such activities may allow for the participation of residents of the neighborhood."; and

(11) in subsection (i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—The first sentence of section 25(m)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437w(m)(1)) is amended to read as follows:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a public housing agency that has been troubled for not less than 3 years and that, as determined by the Secretary, has failed to make substantial progress toward effective management.".

(c) USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—Section 18(b)(3)(C)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)(C)(i)) is amended by striking "15-year".

(d) REPLACEMENT HOUSING OUTSIDE THE JURISDICTION OF THE PHA.—Section 18(b)(3) of the

United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)), as amended by subsection (c), is amended—

(1) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) may provide that all or part of such additional dwelling units may be located outside of 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);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H); 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;".

SEC. 202. DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(2) by adding at the end 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 (including a family whose income increases as a result of the participation of a family member in the Family Self-Sufficiency program or other job training program) shall not be increased for a period of 18 months, beginning with the commencement of employment as a result of the increased income due to such employment. After the expiration of the 18-month period, rent increases due to the continued employment of such family member shall be limited to 10 percent per year. In no case shall rent exceed the amount determined under subsection (a).".

(b) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by subsection (a), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 as such paragraph existed before the date of enactment of this subsection shall continue to be governed by such authority.

SEC. 203. CEILING RENTS BASED ON REASONABLE RENTAL VALUE.

(a) AMENDMENT.—Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)(iii)) is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, 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).

(2) APPLICABILITY.—Except in the case of an Indian housing authority, the regulations issued pursuant to paragraph (1) shall not apply to scattered site public housing units.

(3) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed before the date of enactment of this Act; or

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

SEC. 204. RESIDENT MANAGEMENT PROGRAM.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended—

(1) in paragraph (2), by striking "$100,000" and inserting "$250,000"; and

(2) in paragraph (3), by adding at the end the following: "The Secretary may use not more than 10 percent of the amounts made available under this subsection for program monitoring and evaluation, technical assistance, and information dissemination.".

Subtitle B—Office of Community Planning and Development

SEC. 211. ECONOMIC DEVELOPMENT INITIATIVE.

(a) SECTION 108 ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(A) in the first sentence—

(i) by striking "or" after "section 105(a);"; and

(ii) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias, public works and site or other improvements"; and

(B) by striking the second sentence and inserting 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) DEFINITION.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(24) The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(b) ECONOMIC DEVELOPMENT GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection shall be submitted by eligible public entities in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with a request for guarantee under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(c) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(d) UDAG AMNESTY PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG AMNESTY PROGRAM.—If a grant or a portion of a grant under this section remains unexpended as of the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Housing and Community Development Act of 1993 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Notwithstanding subsection (f), not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

(e) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—

"(1) AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates or other obligations that—

"(A) are offered by the Secretary, or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) are based on and backed by a trust or pool composed of notes or other obligations guaranteed by the Secretary under this section.

"(2) FULL FAITH AND CREDIT OF THE UNITED STATES.—Subsection (f) shall apply to any guarantee under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

"(4) POWERS OF THE SECRETARY.—No Federal, State, or local 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.".

(f) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 212. HOME INVESTMENT PARTNERSHIPS.

(a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended by inserting before the period at the end the following: ", or 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 the provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place such term appears and inserting "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by" in each such place.

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) 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)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(4)(B)), as redesignated by subsection (c), is amended by striking "subsection" and inserting "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 216, by striking paragraph (10);

(2) in section 217(b), by striking paragraph (4);

(3) in section 217(b)(3)—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows through "allocation" and inserting "jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or more and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)"; and

(4) in section 216—

(A) in paragraph (3)(A), by striking "Except as provided in paragraph (10), a jurisdiction" and inserting "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—

(1) HOME PROGRAM.—Section 218(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(d)) is amended in the first sentence, by inserting "that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105, and" after "certification".

(2) HOMELESS ASSISTANCE PROGRAMS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) 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 that 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 affordability 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.".

(3) CONFORMING CHANGES.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking sections 426(a)(2)(F), 434(a)(10), and 454(b)(9).

(g) HOME MATCHING REQUIREMENTS.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) 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 jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 283. AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—"; and

(B) by 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 the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following: "The regulations shall—

"(1) provide for the monitoring of environmental reviews performed under this section;

"(2) at the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(3) establish criteria for the suspension or termination of the assumption under this section.

The Secretary's duty under this subsection shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in subsection (b) in the first sentence, by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting 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 (42 U.S.C. 5305(a)(13)) is amended by inserting 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 the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 213. HOPE MATCH REQUIREMENT.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.

12893(c)(1)) is amended by striking "33" and inserting "25".

SEC. 214. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

SEC. 215. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

Subtitle C—Community Partnerships Against Crime

SEC. 221. COMPAC PROGRAM.

(a) CONFORMING PROVISIONS.—Section 5001 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended in the table of contents—

(1) by striking the item relating to the heading for chapter 2 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME";

(2) by striking the item relating to section 5122 and inserting the following:

"Sec. 5122. Purposes.";

and

(3) by adding the following after the item relating to section 5130:

"Sec. 5131. Technical assistance.".

(b) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading for chapter 2, and by striking sections 5121, 5122, and 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"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) improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

"(2) expand and enhance the Federal Government's commitment to eliminating crime in public housing;

"(3) 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;

"(4) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(5) 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;

"(6) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(7) provide training, information services, and other technical assistance to program participants; and

"(8) 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) 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(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903(a)) is amended—

(1) in the introductory material preceding paragraph (1), by inserting "and around" after "used in";

(2) in paragraph (3), by inserting ", such as fencing, lighting, locking, and surveillance systems" before the semicolon;

(3) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) to investigate crime; and";

(4) 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;

(5) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting "crime"; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

"(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 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, drug and alcohol treatment, and other appropriate social services that address the contributing factors of crime.".

(d) APPLICATIONS.—Section 5125 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking "To receive a grant" and inserting the following:

"(1) APPLICATIONS.—To receive a grant";

(B) in the second sentence, by striking "drug-related crime on the premises of" and inserting the following: "crime in and around"; and

(C) by adding at the end the following new paragraphs:

"(2) ONE-YEAR RENEWABLE GRANTS.—

"(A) IN GENERAL.—Eligible applicants may submit an application for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 years, if 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.

"(B) PREFERENCE.—The Secretary shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance under this chapter that have received previous assistance either under this chapter, as it existed prior to the enactment of the Housing and Community Development Act of 1993, or under section 14 of the United States Housing Act of 1937. Such preference shall not unreasonably prejudice the opportunity for other public housing agencies to receive grants under this chapter.

"(3) PUBLIC HOUSING AGENCIES THAT HAVE ESPECIALLY SEVERE CRIME PROBLEMS.—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. The Secretary may allocate a portion of the annual appropriation for this program for public housing agencies in this class.".

(2) in subsection (b)—

(A) by striking the introductory material preceding paragraph (1) and inserting the following: "The Secretary shall approve applications under subsection (a)(2) that are not subject to a preference under subsection (a)(2)(B) on the basis of—";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting 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 nonprofit 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" each place it appears; and

(4) by striking subsection (d).

(e) DEFINITIONS.—Section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905) is amended by striking paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) IMPLEMENTATION.—Section 5127 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11906) is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1993".

(g) REPORTS.—Section 5128 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11907) is amended—

(1) by striking "The Secretary" and inserting the following:

"(a) GRANTEE REPORTS.—The Secretary";

(2) by striking "drug-related crime in" and inserting "crime in and around"; and

(3) by adding at the end the following new subsection:

"(b) HUD REPORTS.—The Secretary shall submit a report to the Congress describing the system used to distribute funds to grantees under this section. Such report shall include, at a minimum—

"(1) a description of the criteria used to establish the class of public housing agencies with especially severe crime problems and a list of such agencies;

"(2) the methodology used to distribute funds among the public housing agencies on the list created under paragraph (1); and

"(3) the Secretary's recommendations for any change to the method of distribution of funds.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 5130 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909) is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows through the end of the sentence and inserting "$265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995."; and

(2) in subsection (b)—

(A) in the heading, by striking "SET-ASIDES" and inserting "SET-ASIDE"; and

(B) by striking the second sentence.

(i) REPEAL.—Section 520(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11908) is hereby repealed.

(j) TECHNICAL ASSISTANCE.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is further amended by adding at the end 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 shall use not more than $10,000,000, directly or indirectly, under grants, contracts, or cooperative agreements, 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

SEC. 301. CORRECTION TO DEFINITION OF FAMILY.

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended—

(1) by striking "means" and inserting "includes"; and

(2) by inserting "and" immediately after "children,".

SEC. 302. IDENTIFICATION OF CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2); and

(B) in paragraph (4)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (3)"; and

(2) in subsection (f)(1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (D), by striking "(1), (2), and (3)" and inserting "(1) and (3)".

SEC. 303. APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING.

(a) AMENDMENT.—Section 201(b) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)) 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) APPLICABILITY OF AMENDMENT.—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 and an Indian housing authority in accordance with section 201(b)(2) of such Act, as such section existed before the effective date of this section.

(c) APPLICABILITY OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 304. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 305. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 306. TECHNICAL ASSISTANCE FOR LEAD HAZARD REDUCTION GRANTEES.

Section 1011(g) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is hereby repealed.

SEC. 307. ENVIRONMENTAL REVIEW IN CONNECTION WITH GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION.

Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by adding after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1960 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139, 105 Stat. 736).".

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

SEC. 309. SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

(b) CONTRACT RENEWAL.—

(1) IN GENERAL.—Leased housing contracts under section 23 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Housing and Community Development Act of 1974, that—

(A) were converted to section 8 contracts on terms similar to or the same as the terms of the section 8 new construction program; and

(B) expire during fiscal year 1994 or 1995;

shall be extended for a period not to exceed 5 years as if the rents on such projects were established under the section 8 new construction program, except that section 8(c)(2)(C) of the United States Housing Act of 1937 shall not apply to such contracts.

(2) BUDGET COMPLIANCE.—To the extent that paragraph (1) results in additional costs under this section, such paragraph shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

SEC. 310. INDEMNIFICATION OF CONTRACTORS FOR INTELLECTUAL PROPERTY RIGHTS DISPUTES.

A recipient of Federal housing assistance may not use such funds to indemnify contractors or subcontractors against costs associated with litigating or settling disputes concerning the infringement of intellectual property rights.

Subtitle B—Multifamily Housing

SEC. 321. CORRECTION OF MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 322. FHA MULTIFAMILY RISK-SHARING; HFA PILOT PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(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 the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes 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 may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages 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—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that 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 provision of mortgage insurance on the property that 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 under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions 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.

"(iv) APPROVAL BY STATES. In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION. In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, 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 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS. For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE. The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE. 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.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE. The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(b) DEFINITION OF MULTIFAMILY HOUSING Section 544(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) 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 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.".

SEC. 323. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting 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 may be satisfied in connection with a project receiving assistance under a program that is 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 assistance within the jurisdiction of the Secretary and other government 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 greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting 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—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Housing and Urban Development Reform Act relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Subtitle C—Rural Housing

SEC. 331. TECHNICAL CORRECTION TO RURAL HOUSING PRESERVATION PROGRAM.

Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

AMENDMENT NO. 1215

(Purpose: To make a series of corrections)

Mr. BAUCUS. Mr. President, on behalf of Senate RIEGLE and others, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. RIEGLE, for himself, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. DOMENICI, and Mr. BINGAMAN, proposes an amendment numbered 1215.

Mr. BAUCUS. 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 80, after line 25, insert the following new paragraph:

"(3) FORECLOSURE SALE. In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

On page 87, line 4, strike "unsubsidized".

On page 87, line 10, insert "otherwise" after "who are".

On page 87, line 11, strike "such" and insert ", in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1)," after "assistance".

On page 87, line 17, strike "Actions" and insert "With respect to subsidized or formerly subsidized projects, actions".

On page 87, line 17, strike "also".

On page 101, line 2, strike "disposition of, or" and insert "demolition of,".

On page 101, line 3, insert "or conversion in the use of," after "to,".

On page 101, lines 9 through 11, strike "not owned by the Secretary (and for which the Secretary is not mortgagee in possession)" and insert "subject to a mortgage held by the Secretary".

On page 101, line 13, insert ", if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project" before the period.

On page 103, line 16, insert ", unsubsidized," after "subsidized".

On page 105, line 20, insert ", on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory" before the period.

Beginning on page 105, strike line 21 and all that follows through page 106, line 12, and insert the following:

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

On page 108, line 6, insert "and" after the semicolon.

On page 108, line 8, strike "(j)" and insert "(i)".

On page 108, line 8, strike "; and" and insert ".".

On page 108, strike lines 9 through 15.

On page 113, line 9, before the period insert the following: ", except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property".

On page 114, line 15, strike "and".

On page 114, line 22, strike the period at the end and insert "; and".

On page 114, between lines 22 and 23, insert the following new paragraph:

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT. For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

On page 114, between lines 22 and 23, insert the following new subsection:

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

On page 114, line 23, strike "(b)" and insert "(c)".

On page 115, line 2, strike "this Act" and insert "the final regulations implementing the amendments made by this section" before the semicolon.

On page 166, beginning on line 21, strike "Such preference" and all that follows through line 24 and insert the following: "Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.".

On page 177, between lines 8 and 9, insert the following new sections:

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—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 the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes 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 may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). 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 release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) 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;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with 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 subsection (a); and

"(B) 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 his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

On page 187, strike line 11 and insert the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 187, after line 16, insert the following new sections:

SEC. 332. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—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 the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes 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 were the Secretary to undertake such special projects as Federal projects.

(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(A) provide for monitoring of the performance of environmental reviews under this section;

(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). 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 releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) 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;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with 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 subsection (a); and

(B) 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.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

At the appropriate place, insert the following new section:

SEC. ___. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

At the appropriate place, insert the following new section:

SEC. ___. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

On page 73, amend the table of contents by inserting after the item relating to section 310 the following:

Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.
Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

On page 73, amend the table of contents by striking the item relating to subtitle C and inserting the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 73, amend the table of contents by inserting after the item relating to section 331 the following:

Sec. 332. CDBG technical amendment.
Sec. 333. Environmental review in connection with special projects.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1215) was agreed to.

Mr. RIEGLE. Mr. President, I would like to offer my strong support for S. 1299—the Housing and Community Development Act of 1993. This bill is critically important because it responds to the multi-family crisis confronting the Department of Housing and Urban Development [HUD].

This year the Banking Committee held hearings on problems in HUD's

multi-family portfolio. testimony indicated that HUD has experienced a significant increase in loan loss reserves for 1992 from $5.5 billion to $11.9 billion, in order to cover anticipated losses from future defaults on mortgages insured by HUD. We also heard how problems in HUD's multi-family programs are exacerbated by the current rules governing property disposition.

S. 1299 addresses these issues by providing greater flexibility in the disposition of HUD-owned multifamily properties while protecting affordability and preservation objectives in current law. This bill gives the Department new tools to facilitate disposition. It increases the Department's flexibility in disposing of properties and expedites the sales of properties. The expedited sales of HUD-owned properties will reduce the costs of holding and maintaining the properties in the inventory. This will free up HUD's resources to focus on preventing defaults on currently insured mortgages. the bill also provides tools designed to prevent such defaults from occurring and to minimize losses.

The bill includes several other initiatives to enhance existing public housing programs—making these programs more workable and flexible in meeting the needs of individual communities. S. 1299 also expands the scope of the existing Public Housing Drug Elimination Grant Program to pursue preventive approaches to fighting, not just drug related crime, but all types of crime in and around public housing developments.

S. 1299 will help create jobs for people living in economically distressed communities. It contains an economic development initiative which will allow Community Development Block Grant recipients who use the Section 108 Loan Guarantee Program to use grants to create viable economic development projects. The bill includes a UDAG "Amnesty" program. This program will permit cities to trade in outstanding UDAG grants in exchange for funds for other economic development projects.

Lastly, the bill contains several technical amendments to the HOME program and other technical changes which correct errors in recent legislation.

This bill represents an important first step in providing HUD with the flexibility and the tools it needs to begin to confront the crisis in its multifamily programs, in particular, and its management problems, in general. I want to commend Housing and Affairs Subcommittee Chairman SARBANES and his ranking Republican member, Senator BOND, as well as Senator D'AMATO for the bi-partisan spirit with which they have worked to put this bill together.

Mr. SARBANES. Mr. President, I rise tonight to thank the Senate for passing S. 1299—the Housing and Community Development Act of 1993.

Throughout this year, the Housing Subcommittee's principal objective has been to assist Secretary Henry Cisneros in revitalizing the Department of Housing and Urban Development. We all realize that it is crucial to first restore HUD's credibility in order for the agency to reemerge as a participant in efforts to revitalize our Nation's communities. S. 1299 makes important strides toward addressing HUD's difficulties.

The passage of S. 1299 culminates a careful process that began with a series of hearings that looked into key HUD issue areas. In April, the Housing Subcommittee examined the implementation of the HOME Investment Partnership Program. In May, the Banking Committee highlighted HUD management issues in general and the management of the Public Housing Program. And, in June, the Housing Subcommittee held a hearing on FHA multifamily insurance programs.

The goal in these hearings was to build a constructive record. The Housing Subcommittee invited witnesses who represented the best in their fields. The witnesses made useful suggestions as to how to move forward.

The administration sent up the Housing and Community Development Act of 1993 on July 27, which addressed many of the issues developed during the hearings. At the Banking Committee hearing the next day, Secretary Cisneros ably put forward the case for this legislation. Senators RIEGLE and I introduced the administration's bill as S. 1299 the same day at the hearing.

The Senate Banking Committee then worked through the administration's bill in a bipartisan fashion, consulting with the Department and others, and produced a stronger bill that reflects the efforts and suggestions of many different people. On October 19, the Banking Committee held a markup on S. 1299 and it was passed by unanimous vote out of committee.

S. 1299 is a pivotal piece of legislation and packed with helpful reforms. This legislation allows Secretary Cisneros to move forward in solving some of the most intractable problems of HUD, and it sets the stage for the larger reauthorization effort next year.

At the core of this legislation is a set of reforms addressing the problems facing the Federal Housing Administration's [FHA] multifamily insurance programs.

The evidence of distress in the FHA programs is compelling: the HUD-owned inventory of multifamily properties tripled between 1989 and 1992 to over 30,000 units. By the end of this year, as a result of foreclosure actions, the HUD-owned inventory will have doubled again to over 75,000 units. The inventory is growing because HUD cannot sell properties without providing expensive section 8 subsidies. The appropriations necessary to meet the subsidy requirements in current law are not available.

Existing law embodies a noble impulse: it seeks to preserve as many units of affordable housing as possible. In many communities, the FHA properties are some of the only units affordable to very low-income housrholds—some relaxation in the current requirements is imperative. Evidence suggests that HUD is a poor manager of these properties; it is of no benefit to existing tenants if their houses are poorly managed and become run down.

S. 1299 fully protects the very low-income tenants who currently occupy subsidized affordable housing units. They will continue to pay rent that does not exceed 30 percent of their income. I want to emphasize this because the committee has been very concerned about assuring access to affordable housing and providing adequate protections to tenants.

This legislation reduces the cost of property disposition by removing the requirement for future subsidies for units that are not currently subsidized. This legislation also permits HUD to use shallower subsidies and tenant-based assistance in places where current law would otherwise require more expensive project-based section 8 subsidies. Using these authorities, HUD should be able to cut by more than half the appropriations required over the next 5 years to facilitate disposition. At the same time, new authorizations in this legislation will give HUD the flexibility to set-aside more units for low-income families than could be preserved under current law and to try some creative approaches to preserving low-income housing should appropriations be available.

Unfortunately, the problems in managing the HUD-owned inventory are only the tip of the iceberg: HUD owns and services mortgages with a face value of over $7 billion. some $6.2 billion of these mortgages are delinquent—covering properties with 230,000 units. Further, the 1992 audit of the FHA insurance funds required HUD to increase the loan loss reserves on FHA insurance-in-force from $5.5 billion to $11.9 billion.

S. 1299 also takes some important steps toward preventing some of the $11.9 billion in projected losses from occurring. This legislation requires HUD to develop a streamlined mortgage refinancing program to take advantage of current low interest rates. This legislation also more clearly ties existing assistance programs to default prevention strategies. Civil money penalties are increased and made applicable to general partners and certain managing agents. And, legislation gives HUD clear authority to sell mortgages it

holds as a way to relieve its overworked staff of servicing those mortgages. If HUD can sell its performing mortgages, FHA multifamily staff will be able to focus on the troubled mortgages in the portfolio that really deserve attention.

In addition to the multifamily reforms, S. 1299 offers significant improvements to other important HUD programs. Local governments using the HOME program are given greater flexibility to meet their individual housing needs. Most notably, the cumbersome two-tiered match under the HOME program is eliminated, and participating jurisdictions will have more flexibility to assist homeownership for low-income families.

S. 1299 takes a pivotal step toward correcting disincentives in the public housing program for tenants to seek work. Under current law, residents of public housing must pay 30 percent of income for rent; this 30 percent marginal tax is a huge disincentive for public housing residents to go to work. The legislation allows a public housing authority to exclude earned income from the calculation of how much rent a tenant should pay for tenants who decide to go to work. This exclusion would last 18 months and then be phased out.

Improvements to the severely distressed public housing revitalization program will make that program the premiere tool for transforming the worst public housing developments into viable communities.

S. 1299 also addresses the pervasiveness of crime in and around many public housing developments. This legislation greatly enhances the drug elimination grant program—which is referred to as "Community Partnerships Against Crime" or "COMPAC"—and upgrades the program to cover all crime prevention activities occurring in public housing—not just those that are related to drugs. Grants will now cover an array of prevention activities, ranging from community policing and security fences, to youth services and alcohol and drug treatment. Most importantly, COMPAC replaces 1-year competitive grants with 5-year funding. This will allow PHAs to run ongoing programs and to leverage community support for their efforts.

Finally, S. 1299 creates a new grant program in support of the existing, but underutilized Section 108 economic development program. Grants will be used to reduce the risk of investing in these projects, providing a more powerful economic development tool for needy communities.

All in all, this is a balanced package. S. 1299 has been very carefully worked out and I believe it gives HUD some very important tools that will enable HUD to come to grips with some of the problems confronting it.

In closing, I would like to thank Senator RIEGLE, Senator D'AMATO, and Senator BOND, and especially Secretary Cisneros for their assiduous work on this legislative package, as well as the time and energy that their staffs spent working on this legislation with us. The successful working relationship established with this legislation bodes well for future efforts on housing legislation.

Mr. D'AMATO. Mr. President, I am pleased to support the Housing and Community Development Act of 1993. I would like to acknowledge the constructive and bipartisan manner in which the Housing Subcommittee—chaired by Senator SARBANES and Senator BOND as the ranking Republican member—has advanced this important housing initiative. Working together with the administration, I believe that the Committee has produced a significant and promising bill.

The Housing and Community Development Act addresses growing problems that greatly concern me involving the Federal Housing Administration [FHA] multifamily property disposition program. Title I would equip the Department with new tools and powers to facilitate disposition.

The legislation will also provide incentives to facilitate the transition from welfare to work. We cannot promote community development that does not encourage work and education.

This legislation builds upon the success of the Public and Assisted Housing Drug Elimination Act of 1990 to create an expanded crime prevention program that will focus on safety and security. Residents of public and assisted housing should be able to live in an environment free of drugs, guns, and gang activity. Repressing criminal activities should be a primary objective of any responsible housing plan.

Mr. President, the entire Banking Committee has worked diligently over the past 3 years to develop significant housing legislation. I hope that the Secretary will work as diligently to implement this initiative, as well as previous legislation, to address the needs of our Nation's communities.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues today in the amendment to the Housing and Community Development Act of 1993 that will authorize the construction of needed wastewater treatment projects in poor, unincorporated, communities with minority populations who, in spite of their best efforts, are unable to raise the funds to provide for this basic service. These communities cannot be overlooked.

I am especially pleased that this amendment has been enacted as it complements my efforts to provide funding for unincorporated communities who are too small, too poor, and unable to finance sewage projects through the existing Federal loan program or who are slightly too large to qualify for grants. One such community is the South Valley, an unincorporated community in Bernalillo county, NM. This is a semirural community with a minority population which has traditionally relied on septic systems. However, increasing density, a combination of soil characteristics, and a shallow water table now make the area susceptible to groundwater contamination. The local papers frequently contain stories of children suffering mysterious diseases attributed to the unhealthy water. Local sanitation officials recommend boiling the water.

The South Valley, however, lacks the tax base and governmental structure to fund needed infrastructure improvements and prevent these terrible conditions. And so, the residents have suffered.

I look forward to our finally being able to remedy these conditions. I am pleased that combined efforts such as this amendment as well as the bill that I introduced to amendment the Clean Water Act to provide funding for unincorporated communities will be successful.

Mr. BOND. Mr. President, I state my strong support for S. 1299, the Housing and Community Development Act of 1993. This bill was reported out of the Committee on Banking, Housing, and Urban Affairs by unanimous vote on October 19, 1993. S. 1299, as amended in the full Committee, is a significant piece of legislation that addresses a number of issues that are central to the ability of the Department of Housing and Urban Development to carry out the requirements of a number of its programs. In particular, S. 1299 will provide HUD with needed flexibility in the disposition of its multifamily housing inventory, provide HUD with needed authority to help prevent the default of HUD-insured mortgages, make several reforms to the Public Housing and HOME programs, and establish the Community Partnership Against Crime [Compac] Program.

S. 1299, as amended, is designed, in particular, to address a crisis in HUD's FHA Multifamily Housing Property Disposition Program by providing HUD with significant flexibility to dispose of an ever-growing inventory of FHA insured multifamily housing projects which are acquired by HUD through either foreclosure or by assignment.

HUD testified before the Senate Housing Subcommittee on June 22, 1993, that the FHA Multifamily Housing Property Disposition Program is very costly to the Department and that section 203 of the Housing and Community Development Amendments of 1978 limits severely the ability of HUD effectively and efficiently to dispose of properties in its multifamily housing property disposition inventory. As a practical matter, HUD has construed section 203 of the 1978 amendments to require HUD to provide 15-year project-

based section 8 assistance for most of the units in housing projects held by HUD in its multifamily housing inventory. HUD does not and will not have enough 15-year project-based section 8 assistance to meet the section 203 disposition requirements. As a result, HUD has become an involuntary landlord without the administrative capacity to maintain the physical needs of its projects.

In particular, as of April 1, 1993, HUD owned approximately 189 multifamily housing projects with some 31,652 units and was mortgagee-in-possession for approximately 102 other multifamily housing projects with some 15,667 units. Moreover, as of April 1, there were approximately 287 multifamily housing projects or some 42,738 units in the pipeline awaiting possible foreclosure by HUD. The cost of disposition of these units under section 203 is currently estimated at some $5.4 billion.

Moreover, HUD holds delinquent mortgages on properties containing more than 230,000 units. To cover these future estimated losses, HUD was required to increase the insurance loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992.

These are significant and costly obligations. In response to these concerns, I introduced with Senator D'AMATO on July 22, 1993 S. 1279, the FHA Multifamily Housing Flexible Disposition Act of 1993. S. 1279 would have provided HUD, for 18 months, with complete flexibility to dispose of its multifamily housing property inventory while balancing the need to maintain the low-income nature of the housing. S. 1299, as amended, does not go as far as S. 1279. Nevertheless, S. 1299 responsibly addresses this crisis by providing HUD with significant flexibility to dispose of these multifamily housing projects while requiring HUD to continue to provide housing assistance or rent affordability to, at a minimum, the low-income households already receiving assistance. The new flexibility includes the use of section 8 project-based and tenant-based assistance, bridge loans to nonprofits and public entities, rehabilitation grants, discounted sales prices, and the use of rent restrictions in lieu of section 8 subsidies. I emphasize that these provisions are bipartisan, flexible, will help to guarantee good housing quality standards, and, most importantly, will protect low-income households already receiving housing assistance.

This bill also provides a number of modest changes to current housing law to help HUD assess and minimize the risk of mortgage default with regard to the FHA insured multifamily inventory. For example, the bill would make several noncontroversial revisions to the Flexible Subsidy Program to ensure that housing repair needs are better and more appropriately addressed.

I also mention several important legislative provisions which help reform the Public Housing Program. For example, the bill provides for an 18-month disallowance of income counting for rent in public housing for tenants who obtain employment where previously unemployed for one or more years. The bill also allows the reasonable use of ceiling rents in public housing based on market rental value. Both provisions are intended to encourage public housing tenants to seek employment and should result in better income mixes in public housing and positive role models. I strongly support these provisions, and I look forward to a larger dialogue on welfare reform, including public housing reform, during next year's housing and community development reauthorization bill.

This bill also makes a number of noncontroversial changes to the HOME Program which should help localities better use this program. In particular the HOME match will be a flat 25 percent local match as opposed to the current 2-tiered match, which includes a 30 percent local match for new construction. Moreover, a provision of mine is intended to provide communities which are declared Federal disaster areas with more flexibility in using their annual HOME and CDBG funding. In addition, I have proposed a provision to prevent the double payment of energy subsidies for certain residents of HUD assisted housing who also receive assistance under the Low-Income Home Energy Assistance Act [LIHEAP]. This provision should help ensure the equitable use of LIHEAP payments.

Finally, I want to mention the Community Partnership Against Crime [Compac] Program. COMPAC replaces the Public and Assisted Housing Drug Elimination Program. COMPAC is somewhat controversial because the fiscal year 1994 HUD/VA Appropriations Act provides a formula that ensures that large PHA's with 1250 or more units will receive 75 percent of drug elimination funding unless COMPAC provides otherwise. S. 1299, as amended, will provide HUD with the responsibility of determining the COMPAC funding formula, while, at the same time, providing a preference for PHA's, including small PHA's, with ongoing drug elimination programs. I am also encouraged that, under COMPAC, grants will be awarded based on 5-year plans. This will significantly reduce the administrative burden on small PHA's which do not have the resources to submit new drug elimination grant applications every year.

In conclusion, this bill is an excellent example of a bipartisan solution to the costly problem of HUD's disposition of its multifamily housing inventory. It also makes a number of other important, although noncontroversial, housing policy decisions. Nevertheless, I emphasize that I expect a substantial dialogue on housing and community development programs as part of next year's reauthorization bill. We need comprehensive approaches to housing and community development issues that work and work on the local level.

I urge my colleagues to support S. 1299. Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I rise today to address one issue contained in S. 1299, The Housing and Community Development Act of 1993. In particular, I am concerned about the Community Partnerships Against Crime program, which is intended to replace the existing drug elimination grant program. At the outset, let me commend the Committee for the fine work it has done in crafting this comprehensive legislation and make it clear that I do not oppose it.

Nonetheless, I am concerned about the possible loss of funding for smaller PHAs under the Community Partnerships Against Crime program. According to the report accompanying S. 1299, it is expected that all large public housing authorities will be included in the high-crime category, and thus be eligible for funding. However, it is a fact of life that crime is not limited only to large public housing authorities, and I am concerned that in the rush to stop crime in large PHAs, smaller PHAs may be denied access to funding which they need to combat crime. I am thankful to the Committee for its explicit recommendation to HUD that they include some smaller housing authorities in the high-crime category.

If this legislation is enacted, I intend to urge the Secretary to make smaller PHAs eligible for funding under this program. To date, I have received letters from two of the rural communities in my state of Arizona expressing grave concern that they may not be able to acquire the funds necessary to make their housing authorities places where people can live free of fear of crime and violence. I do not rise to begrudge these large PHAs with high crime rates their funding; rather, I rise to note the need to make all PHAs, regardless of size and location, suitable places to live.

It is beyond dispute that one of the most pressing problems confronting this Nation is how to deal with crime. Crime in this Nation touches all walks of life, and all types of communities. For all Americans, whether they live in a large urban center, or in a rural town, the fear of crime is real and personal. An individual living in a small PHA who is victimized by crime, is no less worthy of our attention than is a victim living in a large urban PHA.

I want to reiterate that this is good legislation, which addresses many diverse and difficult issues. I will support this bill, and I will do so with the hope and expectation that Secretary Cisneros will make a portion of the money authorized under the Community Partnerships Against Crime program available to smaller PHAs such

as those in Nogales and Chandler, Arizona.

Mr. DOMENICI. Mr. President, I am generally pleased with the bill we will pass here this evening, and I compliment the bipartisan approach of the Banking Committee and the Housing Subcommittee in achieving this compromise.

The proposal addresses the crisis in multifamily property disposition in a responsible way, providing the Secretary of HUD with the authority and flexibility which will allow speedier disposition of HUD's multifamily housing inventory.

Before I speak about the specific provisions which deal with HUD's multifamily inventory disposition, I want to talk about community development and housing priorities in general.

The President has made community development an important priority with his initiative to create Community Development Financial Institutions. Secretary Cisneros has made reinventing HUD his mission.

While I support the creation of community development financial institutions and I wholeheartedly agree that HUD needs to be reinvented, my top priority as a member of the Housing subcommittee is helping the South Valley of Bernillio county, New Mexico.

In the Housing Banking and Urban Affairs Committee we spend a great deal of time working on ways to foster greater community development, and improved housing conditions for our nation's people.

The Senate Housing Banking and Urban Committee spends a lot of time working on programs to increase the quality of life in our neighborhoods. These are the very same objectives I have for the South Valley.

The leadership of the Senate Banking Committee has been very committed and has gone the extra mile to help me.

There is a moratorium on building multifamily housing in this community until the water and sewage problem is corrected.

The situation is so bad there is almost a daily story in the New Mexico newspapers.

The headline on October 16: "South Valley Residents Blame Water for Girl's Illness."

The headline on October 18: "Residents Learn to Live in Sewage."

The headline on October 30: "Living in a Cesspool."

Other recent headlines, "Girl's Illness May Remain Mystery"; "Pools of 'Gray Water' surround Girl's Mobile Home"; "State seeks more extensive tests on the water from ill girl's house."

If you lived in this neighborhood, your drinking water well is probably on top of your next door neighbor's septic tank leach field.

In addition to the obvious health hazard, your drinking water is sewage scented.

You would live with murky pools of water in your yard. Your vegetable garden and flower garden struggle to co-exist with raw sewage. In addition to digging holes to plant tomatoes and peppers, sometimes you would have to dig a hole to bury a neighbor's overflowing sewage.

There is often a shortage of water so your daily shower is often cut short.

One of the provisions in this bill will authorize some of the money needed to improve the housing stock infrastructure and fund a waste water treatment and drinking water improvement program.

For almost thirty years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock of the area.

This community has been untiring in its efforts to help itself. So many times, its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for nine and one-half years to develop an action plan to address this problem. Together our efforts have led us down several paths with varying degrees of success.

There have been a few successes at the local level which include the following: The Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley for solid waste, water and sewer. The City of Albuquerque, in partnership with Bernalillo County, has contributed its resources in the areas of research, planning and education. The University of New Mexico (Institute of Public Law) provided a point study to the New Mexico Legislature which led to an appropriation of funds for this project. These funds must be spent by the end of 1994. This deadline makes timing critical to create this worthy partnership between state, local and federal resources.

This authorization, if it is enacted into law, will end thirty years of frustration, denial and avoidable health problems in this community.

Today, the Congress will be helping to make a better neighborhood and provide better housing conditions for the South Valley. Because of the conditions of the soil, the community is going to use technology that may be useful in other communities.

I want to thank Senate Housing, Banking and Urban Affairs Chairman Riegle and Ranking Member, Senator D'Amato. I also appreciate the support of Senator Sarbanes and Senator Bond who are the chairman and ranking member of the Housing Subcommittee. And I would be remiss if I didn't thank their staffs for all the help in getting this provision passed.

I now would like to speak on some of the other provisions included in this bill dealing with HUD multifamily crisis.

This bill will offer the Secretary the discretion to preserve the inventory of affordable housing upon sale of these properties by means other than mandating Section 8 subsidies. In doing so, the bill will assure protection to current tenants and the maintenance of our affordable housing inventory, even as it facilitates the sale of HUD-held multifamily properties.

This compromise bill will enhance HUD's ability to prevent future foreclosures on insured mortgages and other HUD assisted multifamily projects which are troubled.

The Secretary will have authority to use a variety of tools to meet the minimum subsidy requirements when disposing of HUD-held multifamily properties, while imposing maintenance standards to be met by the purchasers and managers of these properties.

Mr. President, this proposal to facilitate disposition of HUD's multifamily property inventory has met a high standard of balancing the federal budgetary concerns we all share with the need to provide and preserve affordable housing.

In addition, this bill makes important reforms to public housing programs, provides incentives for new community development activities, and authorizes the COMPAC program for crime prevention initiatives in public housing facilities.

I am particularly grateful to the managers for addressing my concerns about the distribution of funds for the COMPAC program. In this bill, there will be a preference under COMPAC for on going drug and crime reduction programs funded either under the drug elimination grant program or public housing modernization. The language of the bill will allow HUD to determine how to distribute COMPAC funds with the proviso that the HUD Secretary "shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance" under current law.

Mr. LAUTENBERG. Mr. President, I rise to highlight provisions included in the bill to authorize the Community Partnerships Against Crime [COMPAC] Act, which will expand and strengthen the Federal Government's commitment to fighting crime in public and assisted housing. COMPAC is based on legislation I developed with the Secretary of Housing and Urban Development, Henry Cisneros, and which I introduced as a freestanding bill, S. 1297, on July 27 of this year.

Mr. President, COMPAC builds on a program I created in 1988, the Public and Assisted Housing Drug Elimination Act, or PAHDEA. PAHDEA is a competitive grant program that provides funds to housing authorities and residents for a wide variety of anti-drug initiatives. Funds can be used to hire additional security personnel; to establish, equip and train tenant patrols; to make physical improvements designed to enhance security; and for initiatives designed to reduce the use of illegal drugs, such as prevention, referral and treatment programs.

PAHDEA has had a significant, positive impact in housing authorities throughout the country. Residents in many areas report substantial improvements in their living environments, as drug dealing and crime have been eliminated. However, the program remains limited in scope, and the need for assistance has overwhelmed available resources.

The Community Partnerships Against Crime would expand and enhance PAHDEA in several ways.

First, it would broaden PAHDEA's scope to apply to all types of crime, not simply crime that is drug-related. While drugs remain a serious problem in many housing developments, and are directly related to many crimes, there are other types of criminal activity that also demand a response.

Second, COMPAC would significantly increase the resources available to fight crime. In fiscal year 1993, $175 million was available for grants to public housing authorities under PAHDEA. This was sufficient to fund anti-drug programs at only 438 of the roughly 3200 housing authorities nationwide. The scarcity of funding has discouraged many authorities from even applying. Of those that have applied, 48 percent have been rejected, including some with serious crime problems.

In line with ongoing efforts to authorize COMPAC, Congress increased funding for PAHDEA in fiscal year 1994 to $265 million. This bill proposes to increase the program's authorization to $325 million in fiscal year 1995. If fully funded, this increase should better meet the demand for funding, though inevitably some needs will remain unmet.

A third feature of COMPAC is that it will 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. This reflects Secretary Cisneros's commitment to working on problems through a broad-based, community-wide approach. I agree entirely with this approach, and believe it is essential to the success of anti-crime programs. Under COMPAC, as under PAHDEA, authorities that involve the community will be at a significant competitive advantage in the grant selection process. The legislation goes beyond the existing program in highlighting the importance of involving not only community-based groups, but neighboring residents as well.

COMPAC also emphasizes the promotion of community policing initiatives involving interaction between law enforcement officers and members of the community on proactive crime control and prevention. Community policing has proven an effective approach in many parts of the country, and already is making a real difference in many housing projects.

The next major element of COMPAC would provide housing authorities with greater certainty of long-term funding once they win a grant under the program. This responds to concerns that have been raised by some housing authorities about the current program, which makes grants available for one- or two-year periods. Many authorities have found that the lack of long-term certainty has made it more difficult to hire drug counselors and other personnel, and to plan their anti-crime programs.

To respond to the need for greater certainty, COMPAC would allow housing authorities to apply for renewable grants. So long as they perform in a satisfactory manner, grantees would be assured of funding for five years, without the necessity of competing against other housing authorities for the scarce resources available.

In addition, the legislation allows the Secretary to provide a scoring preference to housing authorities seeking to extend programs funded by a prior grant. This also will provide greater long-term certainty for grantees. However, the preference would not preclude the selection by the Secretary of other meritorious applications. Nor would the preference be available for previously funded anticrime programs that have performed poorly, or which otherwise are unworthy of continuation.

I am hopeful that the language included in the manager's amendment will provide HUD with the flexibility necessary to balance our competing goals in allocating grants under the program. On one hand, as I've noted, housing authorities do need a reasonable degree of long-term certainty in planning and implementing their anticrime plans. On the other hand, especially given the scarcity of funds, it is important to target resources to those housing authorities with the greatest needs, the best anticrime plans, and the best working relationships with their residents and local communities.

I again want to emphasize this last point. Research has shown that for anticrime programs to work, it is essential that authorities work closely with their residents and with the local community. This means, for example, involving youth groups, drug counseling centers, and schools, enlisting the support of local elected officials, and ensuring that local law enforcement agencies are committed to addressing the crime problem in public housing. If properly implemented, the preference accorded in the legislation to previous grantees will not unreasonably reduce the programs's incentive to maintain aggressive outreach efforts.

Another element of COMPAC, Mr. President, is that it allows the Department to allocate a portion of appropriated funds to housing authorities with especially severe crime problems.

Mr. President, there has been considerable debate this year about the manner in which HUD has allocated grants between large and small housing authorities. For the past several years, most of the largest housing authorities have been successful in winning grants. This year, however, of the 149 large PHA's that applied for funding, 23 failed to win grants. Among those who failed to win grants were the housing authorities in Baltimore, Cleveland, Louisville, and Washington, DC.

Largely because of these rejected applications, some have suggested that the program has been unfair to the large housing authorities. If true, this would be disturbing, as most of the largest authorities do have severe crime problems.

The facts, however are not easy to pin down. It turns out that several of the large housing authorities that failed to win grants submitted deficient applications or were plagued by management problems. And while 85 percent of large PHA applicants won grants, the success rate for other housing authorities was less than 50%.

There has also been confusion over the relative crime rates in large and small housing authorities. Earlier this year, the VA, HUD and Independent Agencies Appropriations Bill for Fiscal Year 1994 set aside 75 percent of PAHDEA funding for the largest housing authorities. In justifying this allocation, the Senate report on the bill stated that HUD's figures show that 85% of crime in public housing is in the largest housing authorities.

HUD's actual estimate, however, is that about 75% of the crime problem is in the large public housing authorities. And even that figure is subject to dispute. HUD's estimate is based in large measure on data that reflects crime rates on a city-by-city basis. The smaller housing authorities dispute HUD's conclusion, and point out that many medium- and small-sized cities have low crime problems overall, but have serious problems in housing projects and other pockets of poverty.

Given the uncertainties involved, Mr. President, my preference has been to avoid an arbitrary statutory formula. In my view, Congress should leave HUD

with the flexibility to determine an appropriate allocation after further consultation with interested parties, and exploration of the relative crime rates in more narrowly-defined areas.

While a 75% allocation to the largest authorities has already been established for fiscal year 1994 in the appropriations bill, this legislation would give HUD the discretion to determine an appropriate allocation of COMPAC funds in the future. Under the legislation, the Secretary would be allowed, but not required, to allocate a portion of annual appropriations for housing authorities with severe crime problems, which need not be limited to the largest authorities. Such an allocation could be made only by regulation issued after notice and opportunity for public comment. I think this kind of flexibility makes sense for now.

Mr. President, I want to thank Secretary Cisneros for his help and cooperation in putting together this legislation, and for his commitment to fighting crime in public housing. Assistant Secretary Joe Shuldiner, and the Director of the Office of Drug-Free Neighborhoods, Julie Fagin, also have been very cooperative in developing the bill, and I thank them for their help, and for their genuine commitment to the program.

I also want to express my appreciation to the Chairman of the Housing Subcommittee, Senator SARBANES, for his leadership and his support of the program. I look forward to continuing to work closely with him, and with Senator MIKULSKI, the Chairperson of the VA, HUD and Independent Agencies Subcommittee, to help ensure that COMPAC is a success.

Mr. LEAHY. Mr. President, I want to thank Senator SARBANES for including an amendment in the managers' package which will create jobs in Vermont. The measure will correct a ruling by the General Counsel's Office at the Department of Housing and Urban Affairs that has blocked the release of revolving loan funds across the country.

Mr. President, for several months, I have been trying to reverse a ruling that imposed an impossible catch-22 for releasing desperately needed capital. Unlike revolving loan funds under the CDBG program, the general counsel ruled that HUD could not permit the creation of a revolving loan fund from special purpose grants until an environmental assessment is completed on the projects capitalized under such a fund. That is an illogical and impossible condition for release. Environmental assessments cannot possibly be performed at sites which have not yet been identified, since HUD has not given approval for the loan fund.

Mr. President, the amendment offered by the managers to S. 1299 will put the responsibility of environmental assessments for special purpose revolving loans into the hands of States and local communities—not at HUD. I commend Senator SARBANES for including this provision and I thank him for his cooperation to eliminate this red tape.

Mr. SARBANES. Mr. President, as author and manager of S. 1299, I am pleased to have provided this assistance which is clearly important to Vermont. I would also note that Missouri faced a similar problem and Senator BOND has worked closely with the subcommittee on this matter.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as amended.

The substitute amendment, as amended, 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.

(The text of the bill, as passed, will be printed in a future edition of the RECORD.)

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING PRINTING OF SENATE DOCUMENT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 168, a resolution authorizing the printing of the "Committee on Appropriations, U.S. Senate, 126th Anniversary, 1867–1993," submitted earlier today by Senators BYRD and HATFIELD, that the resolution be agreed to and the motion to reconsider laid upon the table, that any statements relating thereto be printed in the RECORD at the appropriate place.

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

The resolution (S. Res. 168) was agreed to; as follows:

S. RES. 168

Resolved, That there be printed with illustrations as a Senate document a compilation of materials entitled "Committee on Appropriations, United States Senate, 126th Anniversary, 1867–1993", and that there be printed five thousand additional copies of such document for the use of the Committee on Appropriations.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 1281 AND S. 1150 ON TUESDAY, JANUARY 25, 1994

Mr. BAUCUS. Mr. President, I ask unanimous consent that on Tuesday, January 25, at 2:30 p.m. the Senate turn to the consideration of S. 1281, the State Department authorization bill, and that upon the disposition of that bill the Senate turn to the consideration of Calendar No. 106, S. 1150, the Education 2000 legislation.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Michele Payne, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive sessions the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON U.S. ACTIVITIES IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT—PM-71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1992. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress; 22 U.S.C. 287b).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 18, 1993.*

MESSAGES FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 412. An act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

S. 1534. An act to amend title 38, United States Code, to repeal a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 898. An act to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources.

H.R. 3313. An act to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes.

H.R. 3456. An act to amend title 38, United States Code, to restore certain benefits eligibility to unremarried surviving spouses of veterans.

ENROLLED BILLS SIGNED

At 6:06 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 bills:

H.R. 2401. An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building.

H.R. 3341. An act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 8:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3450. An act to implement the North American Free-Trade Agreement.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources; to the Committee on Indian Affairs.

H.R. 3456. An act to amend title 38, United States Code, to restore certain benefits eligibility to unremarried surviving spouses of veterans; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3450. An act to implement the North American Free-Trade Agreement.

MEASURES READ THE FIRST TIME

The following measure, previously received from the House of Representatives, was read the first time:

H.R. 881. An act to prohibit smoking in Federal buildings.

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–1755. A communication from Secretary of Housing and Urban Development, transmitting, pursuant to law, annual report of data on program applicants and beneficiaries; to the Committee on Banking, Housing and Urban Affairs.

EC–1756. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing and Urban Affairs, to the Committee on Commerce, Science and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, and to the Committee on Small Business.

EC–1757. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Haiti; to the Committee on Banking, Housing and Urban Affairs.

EC–1758. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, notice relative to a transaction involving United States exports to the Republic of Korea; to the Committee on Banking, Housing and Urban Affairs.

EC–1759. A communication from the Interim Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the semiannual report for the period January 1, 1993 through June 30, 1993; to the Committee on Banking, Housing and Urban Affairs.

EC–1760. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the Selected Acquisition Reports for the quarter ending September 30, 1993; to the Committee on Armed Services.

EC–1761. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on Budget.

EC–1762. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the impact of increased aeronautical and nautical chart prices resulting from Public Law 99–272 on public sales and navigation safety; to the Committee on Committee on Commerce, Science and Transportation.

EC–1763. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the State Energy Conservation Program for calendar year 1992; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

H.R. 1425. A bill to improve the management, productivity, and use of Indian agricultural lands and resources (Rept. No. 103–186).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 991. A bill to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes (Rept. No. 103–187).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes (Rept. No. 103–188).

By Mr. MOYNIHAN, from the Committee on Finance, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Governmental Affairs, the Committee on the Judiciary and the Committee on Foreign Relations, jointly, without amendment:

S. 1627. A bill to implement the North American Free Trade Agreement (Rept. No. 103–189).

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

S. 1501. A bill to repeal certain provisions of law relating to trading with Indians (Rept. No. 103–190).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 160. A resolution expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes.

S. Res. 162. A resolution relating to the treatment of Hugo Princz, a United States citizen by the Federal Republic of Germany.

S. Res. 165. A resolution to state the sense of the Senate with respect to the compliance of Libya with United Nations Security Council Resolutions.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Res. 167. A resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of , from the Committee on Foreign Relations, without amendment:

S. Res. 169. An original resolution to establish a U.S.-Russia Nuclear Policy Review Group.

S. 1672. An original bill to revise obsolete laws related to the Cold War.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 44. A concurrent resolution to express the sense of Congress concerning the International Year of the World's Indigenous Peoples.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 50. A concurrent resolution concerning the Arab boycott of Israel.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

George J. Kourpias, of Maryland, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994;

Lottie Lee Shackleford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1995;

Mark L. Schneider, of California, to be an Assistant Administrator of the Agency for International Development;

Karin Lissakers, of New York, to be United States Executive Director of the International Monetary Fund for a term of two years;

L. Ronald Scheman, of the District of Columbia, to be United States Executive Director of the Inter-American Development Bank for a term of three years;

Larry E. Byrne, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Jennifer Anne Hillman, of the District of Columbia, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator;

Stuart George Moldaw, of California, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations;

John David Holum, of South Dakota, to be Director of the United States Arms Control and Disarmament Agency;

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for International Narcotics Matters;

John Chrystal, of Iowa, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994;

Marian C. Bennett, of the District of Columbia, to be Inspector General, United States Information Agency;

John F. Hicks, Sr., of North Carolina, to be an Assistant Administrator of the Agency for International Development;

M. Douglas Stafford, of New York, to be an Assistant Administrator of the Agency for International Development,

Brian J. Donnelly, of Massachusetts, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations; and

Thomas L. Siebert, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Thomas L. Siebert.

Post: Sweden.

Contributions, amount, date, donee:

1. Self $250
2. Spouse
3. Children and Spouses Names
4. Parents Names
5. Grandparents Names
6. Brothers and Spouses Names
7. Sisters and Spouses Names

Contributions, amount, date, donee:

1. Self: Thomas L. Siebert $250, June 1993, Maryland Democratic Leadership Council; $2,000, March 1992, Ferraro for U.S. Senate; 1,000, June 1992, Lynn Yeakel for U.S. Senate; 1,000, June 1992, Clinton General Election Compliance Fund; 1,300, July 1992, Democratic Leadership Committee (Trustee Credentials); 2,000, July 1992, Democratic National Committee Victory Fund; 200, August 1992, MD Democratic Party/Federal Account; 1,000, September 1992, Democratic National Committee Victory Fund; 35, September 1992, Friends of Casper Weinberer; 500, September 1992, MD Democratic Party/Federal Account; 300, September 1992, Democratic National Committee Victory Fund/Federal Acct.; 250, October 1992, MD Democratic Party/Federal Account; 1,250, November 1992, Robert F. Kennedy Memorial Foundation; 1,500, February 1991, National Democratic Institute; 1,000, May 1991, Citizens for Harris Wofford; 1,000, October 1991, Campaign for Barbara Boxer, 1,000, November 1991, Clinton for President; 1,000, November 1991, Les AuCoin for Senate; 100, February 1990, Friends of Senator Levin; 1,000, January 1989, John Kerry for Senate; 250, April 1989, Citizens for Kathleen Townsend; 1,000, June 1989, Hagan for Mayor of Cleveland; 1,000, June 1989, Harvey Sloan for U.S. Senate; 1,000, October 1988, Friends of Tony Earl for U.S. Congress.

2. Spouse: Deborah S. Siebert, $2,000, June 1992, Clinton General Election Compliance Fund; 1,000, May 1991, Citizens for Harris Wofford; 1,000, October 1991, Campaign for Barbara Boxer, 1,000, December 1991, Clinton for President; $1,000, January 1989, John Kerry for Senate; 1,000, June 1989, Harvey Sloan or U.S. Senate.

3. Children and Spouses, none.

4. Parents: Virgil J. Siebert, $1,000, January 1991, Clinton for President.

5. Grandparents, none.

6. Brothers and spouses: Keith M. Siebert $1,000, January 1992, Clinton for President; $100, September 1992, Montgomery County Democratic Party. Elizabeth K. Siebert, $1,000, December 1992, Clinton for President. John V. Siebert, $1,000, December 1991, Clinton for President. Walta S. Siebert, $1,000, December 1991, Clinton for President. Craig L. Siebert, $1,000, January 1992, Clinton for President; 1,000, June 1992, Clinton General Election Compliance Fund; 2,000, July 1992, Democratic National Committee; 1,000, October 1992, Clinton/Gore Compliance Fund; 100, October 1992, Robert Neall for County Executive '94; 500 August 1990, Glen Gibbs for County Council; 100, December 1990, O.J. Lighthizer Tribute; 1,000, June 1989, Harvey Sloan for U.S. Senate; 1,000, October 1988, Friends of Tony Earl for U.S. Congress.

7. Sisters and spouses, none.

Leslie M. Alexander, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate).

Nominee: Leslie M. Alexander.

Post: Mauritius/Comoros.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Natalia R. Alexander, none; Margaret F. Alexander, none.
4. Parents names, Leslie M. and Ginnette Alexander, none.
5. Grandparents names, Jean Guy and Artemise Chevalon, deceased; Leslie and Florett Alexander, deceased.
6. Brothers and spouses names, Steven Alexander, none; Bruce and Lisa Alexander, none; Michael and Lorri Alexander, none.
7. Sisters and spouses names, none.

Robert Gordon Houdek, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Eritrea.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Robert G. Houdek.

Post: Eritrea.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Pamela Lynn Houdek, none; William D. Houdek, none.
4. Parents names, George C. Houdek, Sr., deceased, none; Margaret Ann Munch, none.
5. Grandparents names, Mr. and Mrs. James Houdek, deceased, none; Mr. and Mrs. Otto Riepel, deceased, none.
6. Brothers and spouses names, Mr. and Mrs. George C. Houdek, Jr., none; Mr. and Mrs. Thomas J. Houdek, none.
7. Sisters and spouses names, none.

David P. Rawson, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Christina Marie Rawson, none; David Jonathan Rawson none.
4. Parents names, Amos P. Rawson, none; Lola M. Rawson, deceased.
5. Grandparents names, Edward and Helen Rawson, deceased; Howard and Mary Moore, deceased.
6. Brothers and spouses names, Edward and Joan Rawson, none; Perry and Carol Rawson, $25, last summer, to a candidate for Democratic primary elected in Oregon to the U.S. Senate. He cannot recall the candidate's name.

Mark Gregory Hambley, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Mark G. Hambley.
Post: Lebanon; Nominated 6/11/93.
Contributions, amount, date, donee.
1. Self, Mark G. Hambley, none.
2. Spouse, Patricia A. Hambley, none.
3. Children and spouses names, None. none.
4. Parents names: Ardella Hambley (mother), none; Gordon Hambley, father (deceased) none.
5. Grandparents names, all deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Patricia Cody, (remarried 1992; previously Lynn Denz), none; Ken Cody, (spouse), none.

Victor L. Tomseth, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the informaiton contained in this report is complete and accurate.)

Nominee: Victor Lloyd Tomseth.
Post: Laos.
Contributions, and amount.
1. Self, none.
2. Spouse, Wallapa Tomseth, nee Charoenrath, none.
3. Children and spouses, Christopher Jon Tomseth, son, single, none; Aranya Lynn Tomseth, daughter, single, none.
4. Parents, Hersey Fay Tomseth, father, deceased, none; Lyla Irene Tomseth nee Currant, mother, none.
5. Grandparents, Peter Marius Tomseth, paternal grandfather, deceased, none; Mina Tomseth nee Berg, paternal grandmother, deceased, none; Lloyd Maynard Currant, maternal grandfather, deceased, none; Justa Odessa Currant nee Garrett, maternal grandmother, deceased, none.
6. Brothers and spouses, Hersey Arne Tomseth, none; Kathleen Ann tomseth nee Avery, none.
7. Sisters and spouses, Daphne Lynn Prenevost nee Tomseth, none; Edward George Prenevost, none.

Edward P. Djerejian, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Edward Peter Djerejian.
Post: Israel
Contributions, amount, date, donee:
1. Self, none.
2. Spouse, Francoise, none.
3. Children and spouses names, Gregory and Francesca none.
4. Parents names, Peter Djerejian, deceased; Mary Djerejian, none.
5. Grandparents names, deceased.
6. Brothers and spouses names, Robert Djerejian, divorced, $500, 1991, GOP.
7. Sisters and spouses names, N/A.

Theodore E. Russell, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Russell, Theodore E.
Post: Bratislava, Slovakia.
Contributions, amount, date, and donee:
1. Self, $50, June 1993, DNC.
2. Spouse, none.
3. Children and spouses names Douglas R. & Richard M., none.
4. Parents deceased, names Dr. Paul F. & Phyllis A. Russell.
5. Grandparents deceased, names Rev. Samuel & Sarah W. Russell.
6. Brothers and spouses names Elsbeth G. & Christopher H. Russell, none.
7. Sisters and spouses, names, none.

Martin L. Cheshes, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Martin L. Cheshes.
Post: Republic of Djibouti.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, Marlyn Cheshes.
3. Children and spouses, names Jay Cheshes, none, Laura Palmer (nee Cheshes) none, Donald Palmer, $25. 7/93 Republican Nat'l Committee .
4. Parents, names, Edward Cheshes, deceased, Sylvia Cheshes, none.
5. Grandparents, names, Mr. & Mrs. Jacob Cheshes, deceased, Mr. & Mrs. Max Toffler, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses, names, none.

Marc Charles Ginsberg, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Marc C. Ginsberg.
Post: Ambassador of Morocco.
Contributions, amount, date, and donee:
1. Self, Marc Ginsberg, $1,000, November 1991, Clinton for President. $250, November 1991, Kerry for President.
2. Spouse, Janet Ginsberg, $1,000, April 1992, Clinton for President.
3. Children and spouses, names Alexis Ginsberg, Grant Ginsberg, none.
4. Parents Harriet Ginsberg, names Lester Ginsberg (deceased), none.
5. Grandparents Murray & Ray, names Wendy (deceased), none.
6. Brothers and spouses, names Jay Ginsberg, Larry & ... Ginsberg, Mike Ginsberg, none.
7. Sisters and spouses, names none.

Nicholas Andrew Rey, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Nicholas Andrew Rey.
Post: Poland.
Contributions amount date and donee.
1. Self: $250, 1989, Nita Lowey for Congress, $250, 1989, Friends of Robert Brodsky (County Supervisor), $250, 1990, Nita Lowey for Congress, $200, 1992, Democratic National Committee, $1,000, 1992, Clinton for President, $100, 1992, N.Y. State Democratic Party, $200, 1992, DNC Federal Account, $250, 1992, Nita Lowey for Congress, $250, 1992, Abrams '92, $25, 1993, Feinstein for Senate.
2. Spouse, Louisa M. Rey, $15 1990, N.Y. Democratic Party.
3. Children and spouses, names Cecilia (none); Michael (none) Anthony (none).
4. Parents, names, Andrew Rey (deceased), Maria Rey (deceased).
5. Grandparents, names Tabecki and Rey (do not have first names; all deceased at least since 1959).
6. Brothers and spouses, names none.
7. Sisters and spouses, names none.

Edward Elliott Elson, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Edward Elliott Elson.
Post: Ambassador to the Kingdom of Denmark.
Contributor, amount, date, and donee:

Edward E. Elson, $500 1989, IMPAC, Inc., $1,000 1989, Sam Nunn Campaign Committee, $100 1989, Eisendrath for Congress, $500 1990, Citizens for Arlen Specter, $500 1990, David Smith for Congress, $500 1991, Friends of Al Gore, $250 1991, Citizens for Arlen Specter, $1,000 1991, Democratic Senatorial Campaign Committee, $250 1991, Wilder for President Committee, $500 1991, Wilder for President Committee, $1,000 1992, Worley for Congress '92, $1,500 1992, Democratic Senatorial Campaign Committee,* $12,000 1992, Democratic National Committee, $250 1992 Abrams '92, 40,000 1992 Democratic Victory Fund Non-Federal Acct, $5,000 1992, Democratic Senatorial Campaign Committee, $100 1992, John Lewis for Congress, $1,000 1992, Darden for Congress, $60,000 1992, D.N.C. Victory Fund Non-Federal Acct., $500 1993, Bill Bradley for Senate, and $1,000 1993, The Hyatt Committee.

Joint w/Spouse, $500, 1992, Cathey Steinberg for Congress, $10,814.37 1992, Cost of Pre-Election Dinner Party for 184 Guests in Honor of Hillary Clinton.

Spouse: Suzanne G. Elson, $1,000 1989, Sam Nunn Campaign Committee, $2,000 1990, Wyche Fowler for Senate, $500, 1990, Citizens for Arlen Specter, $200, 1990, Harvey Gantt for Senate, $250, 1991, Wilder for President, $100 1992, Geraldine Ferraro for Senate, $100, 1992, Lynn Yeakel Campaign, and $20,000, 1992, Democratic National Committee.

Children: Charles M. Elson, $500, 1990, Worley for Congress 1990, $250 1990, Worley for Congress 1990, $250 1992, Friends of Karen Moffitt, $500 1992, Worley for Congress 92, 50 1992, Kyle McSlarow for Congress, $250 1992, Worley for Congress 92.

Louis & Sarah Elson, $1,000, 1992, Wyche Fowler for Senate.

Harry Elson II, $1,000, 1992, Wyche Fowler for Senate.

Parents: Harry Elson (deceased), Esther Elson $250, 1989, Democratic National Committee, $250, 1989, ASDC/Democratic Victory Fund, $250 1989, Democratic National Committee, $250 1990, ASDC/Democratic Victory Fund, $1,000 1991, Democratic National Committee, $500 1991, Clinton for President, $500 1992, Clinton for President, $1,000 1992, Democratic National Committee, $10,000 1992, Democratic National Committee.

Grandparents: Myer Elson (deceased), Sadie Elson (deceased), Rose Cohen (deceased), Louise Cohen (deceased).

Brothers, none.

Sisters, none.

*An additional contribution of $8,000 was returned at my request. A contribution of $5,000 to the Democratic Party of Virginia was returned at my request.

Sidney Williams, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge the information contained in this report is complete and accurate.)

Nominee: Sidney Williams.

Post: Ambassador to the Commonwealth of the Bahamas.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and spouses, Edward K. Waters, Karen Titus and, Earl Titus, Byron G. Williams, none.

4. Parents (deceased.).

5. Grandparents (deceased.)

6. Brothers and spouses, Elijah Williams, Jr. and Medoria Williams, none, Robert L. Williams (deceased.).

7. Sisters and spouses, Annie J. Gilliam, (unmarried), none.

K. Terry Dornbush, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Kirk Terry Dornbush.

Post: Ambassador to The Kingdom of The Netherlands.

Contributor, amount, date, and donee.

1. Kirk Terry Dornbush, $1,000, 89, Wyche Fowler for Senate, $500, 89, Wyche Fowler for Senate, $15,000, 89, Dem. Senatorial Camp. Cmte, $2,000, 89, Friends of Al Gore Jr., $400, 89, Darden for Congress, $1,000, 89, Sam Nunn Campaign Cmte, $1,000, 89, Cranston for Senate, $1,000, 89, Democratic Party of GA, $20,000, 90, Dem. Senatorial Camp. Cmte, $1,000, 90, Kerry Committee, $1,000, 90, Worley for Congress '90, $2,000, 90, Ben Jones for Congress, $500, 90, Darden for Congress, $500, 91, Dem. Party of GA Federal Acct, $500, 91, Voters for Choice, $1,000, 92, Tsongas Committee, $20,000, 92, DNC Victory Fund, $500, 92, Darden for Congress, $1,000, 92, Cathey Steinberg for Congress, $5,000, 93, Democratic Party of GA, $1,000, 93, Darden for Congress, $1,000, 93, Friends of Jeff Neubauer, $2,000, 93, Breaux Jt Cmte (sole designtn), $2,500, 93, Democratic Party of GA.

2. Marilyn P. Dornbush, $500, 89, Wyche Fowler for Senate, $1,000, 89, Wyche Fowler for Senate, $1,000, 89, Sam Nunn Campaign Committee, $1,000, 89, Cranston for Senate '92, $2,000, 89, Friends of Al Gore Jr., $1,000, 90, Wyche Fowler for Senate, $275, 90, Kerry Committee, $500, 90, Friends of Sen. Rockefeller, $1,000, 90, Re-elect Sen. Pell Committee, $500, 90, Sloane for Senate Committee, $500, 90, Worley for Congress '90, $1,000, 90, Harvey Gantt for Senate, $20,000, 92, DNC Victory Fund, $5,000, 1993, Democratic Party of GA, $1,000, 1993, Friends of Jeff Neubauer, $2,500, 1993 Democratic Party of GA.

3. Laura D. Iarocci, $1,000, 1990, Wyche Fowler for Senate; Joseph Iarocci, $100, 1990, NY Democratic Party, $1,000, 1990, Wyche Fowler for Senate, $1,000, 1992, Sanford Bishop for Rep, $1,000, 1992, John Lewis for Rep, $500, 1992, Tony Center for Rep, $500, 1992, Cathey Steinberg for Congress, $500, 1992, Buddy Darden for Congress, 10,000, 1992, DNC Victory Fund; and Kirk Dornbush, Jr., $500, 1989, Wyche Fowler for Senate, $1,000, 1989, Friends of Al Gore Jr., $175, 1990, Young for Governor, 500, 1992, Tsongas Committee, $1,100, 1992, Cathey Steinberg for Congress, $100, 1992, Emily's List, $20,000, 1992, DNC Victory Fund, $1,000, 1993, Friends of Jeff Neubauer, $1,607*, 1993, Friends of Jeff Neubauer, $100, 1993, Emily's List, $100, 1993, Ms. Shipneck; and Barbara B. Dornbush, $1,000, 1989, Friends of Al Gore Jr., $1,500, 1989, Wyche Fowler for Senate, $1,000, 1990 Wyche Fowler for Senate, $100, 1992 Dianne Feinstein, $20,000, 1992 DNC Victory Fund, $1,000, 1993 Friends of Jeff Neubauer; and Claire D. Archer, $1,000, 1989, Wyche Fowler for Senate, $1,000, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund; and Burke Archer, $1,000, 1991 Wyche Fowler for Senate.

To be refunded.

4. Kirk Dornbush (deceased), Claire S. Dornbush (deceased).

5. George Dornbush (deceased), Sophie Dornbush (deceased), Eric Saperstein (deceased), Passie Saperstein (deceased).

6. Robert E. Dornbush, $1,000, 1989, Sam Nunn Campaign Committee, $1,000, 1989, Cranston for Senate 1992, $1,000, 1989, Friends of Al Gore Jr., $500, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund, $1,000, 1992, Wyche Fowler for Senate; and Dianne S. Dornbush, $1,000, 1989, Sam Nunn Campaign Committee, $1,000, 1989, Cranston for Senate 1992, $1,000, 1989, Friends of Al Gore Jr., $500, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund, $1,000, 1992, Wyche Fowler for Senate.

7. None.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

M. Larry Lawrence, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: M. Larry Lawrence.

Post: Ambassador to Switzerland.

Contributions, date and donee, amount:

M. Larry Lawrence:

04/27/89—Friends of Tom Harkin	$1,000
05/01/89—Cranston for Senate '92	1,000
05/19/89—Senator John Glenn Committee	1,000
05/26/89—Levine for Congress	1,000
06/16/89—Cranston for President Committee[1]	10,000
06/25/89—Simon for Senate	1,000
10/31/89—Jim Bates for Congress—Primary	1,000
12/22/89—Bill Bradley for Senate—Primary	1,000
12/27/89—Bill Bradley for Senate	1,000
12/23/89—IMPAC '88	1,500
03/20/89—Gary K. Hart for Congress	100
04/25/89—John P. Vinich for Congress	500
10/05/89—Friends of Howell Heflin Committee	500
06/20/89—Citizens for Biden Committee—1990	500
03/22/99—Campaign to Re-Elect John Kerry	1,000
03/28/90—Speaker's Club (Demo. Cong. Comm.)	3,500
07/09/90—Jim Bates for Congress	1,000
07/09/90—Harvey Gantt for Senate	1,000
07/10/90—Democratic Senatorial Campaign Committee	1,000
07/11/90—Ted Muenster for Senate	1,000
10/05/90—Citizens for Harkin	1,000
01/31/90—Yates for Congress Committee	250
01/31/90—Friends of Senator Carl Levin	500
03/27/90—Richard Freiman for Congress Committee	250
05/04/90—Re-Elect Exon for U.S. Senate Committee	500
07/31/90—McMillen for Congress	100
08/30/90—New Mexicans for Tom Udall	200
08/29/90—Daniel K. Akaka for U.S. Senate	500
10/19/90—Lonsdale for Senate	500
10/31/90—Wellstone for Senate	500
04/17/90—Re-Elect Howard Wolpe	200
09/27/90—Dick Swett for Congress	100
11/07/90—Friends of Jim Moody	100
05/28/91—Citizens for Senator Wofford—Primary	1,000
09/19/91—Democratic Senatorial Campaign Committee	1,000
10/04/91—Deddeh for Congress	1,000
10/29/91—Citizens for Senator Wofford—General	1,000
12/10/91—Filner for Congress	1,000
01/21/92—Clinton for President	1,000
03/05/92—Lynn Schenk for Congress—Primary	
04/08/92—Kerrey for President	1,000
07/10/92—Lynn Schenk for Congress—General	1,000
08/12/92—Bob Filner for Congress	1,000
10/15/92—Sanford for Senate	500
09/14/92—Sanford for Senate	500
01/09/92—Gray Davis for U.S. Senate	500
02/03/92—Brock Adams Senate Committee	500
03/31/92—Friends of Jim Moody	500
03/16/92—Folks for Pat Williams	250
04/02/92—Levine Campaign Committee	500
08/13/92—Les AuCoin for Senate	500
06/09/92—Janet Gastil for Congress Committee	500
06/10/92—Friends of Patti Garamendi	250
06/09/92—Americans for Harkin	250
06/23/92—Friends of Jane Harman	500
06/22/92—Nancy Pelosi for Congress	500
08/25/92—Barbara Boxer for U.S. Senate	250
10/26/92—John Glenn for Senate Committee	500
03/11/93—Citizens for Joe Kennedy	1,000
03/26/93—Kerrey for U.S. Senate	1,000
06/21/93—George Mitchell for Senate	1,000
01/28/93—Bob Krueger Campaign	500
05/26/93—Lieberman '94 Committee	500

Shelia Davis Lawrence:

[1] This donation was used to pay an FEC fine, and therefore does not count against the limit.

07/06/90—Jim Bates for Congress—Primary & General	$2,000
10/01/90—Campaign to Re-Elect John Kerry	1,000
10/04/90—Citizens for Harkin	1,000
10/25/90—Friends of Rosa DeLauro	1,000
05/29/91—Citizens for Senator Wofford	1,000
01/13/92—Feinstein for Senate	1,000
01/21/92—Clinton for President	1,000
04/15/92—Kerrey for President	1,000
04/15/92—Emily's List	1,000
04/30/92—DNC (exempt) (Convention)	2,600
05/21/92—Bill Clinton General Election Compliance	1,000
07/06/92—Faces of Change/U.S. Senate	1,000
07/10/92—Friends of Chris Dodd	1,000
08/25/92—Friends of Rosa DeLauro	1,000
10/08/92—Lynn Yeakel for Senate	1,000
01/09/92—Gray Davis for U.S. Senate	500
01/09/92—Ferraro for U.S. Senate Committee	500
06/09/92—Americans for Harkin	250
08/24/92—Barbara Boxer for U.S. Senate	250
03/15/93—Citizens for Joe Kennedy	1,000
03/20/93—Kerrey for U.S. Senate	1,000
06/01/93—Emily's List	1,000
06/07/93—Congressman Bob Filner—Debt Reduction '92	1,000
04/16/93—Democratic Congressional Dinner Committee	100
05/26/93—Lieberman '94 Committee	500
Leslie Caspi:	
1989—	0
1990—	0
1991—	0
02/25/92—Clinton for President	$75
05/06/92—Feinstein for Senate	200
09/03/92—Feinstein for Senate	125
10/19/92—Lynn Schenk for Congress	150
10/21/92—Bob Filner for Congress	75
1993	0
Shlomo Caspi:	
1989	0
1990	0
1991	0
04/02/92—San Diegans for Bob Filner	250
10/21/92—Bob Filner for Congress	75
1993	0
Robert S. Lawrence:	
1989	0
1990	0
1991	0
1992—Congresswoman Lynn Schenk	$100
1992—Congressman Bob Filner	250
1993	0
Laurie Black:	
1989	0
1990	0
1991	0
1992—Senator Bob Kerrey	$250
1992—Congresswoman Lynn Schenk	500
1992—Congressman Bob Filner	250
1992—President Bill Clinton	500
1993	0

Andrea Lawrence, none.

Spouse: No spouse.

Stephanie K. Lawrence, none.

4. Parents: Tillie Astor Lawrence, deceased, Sidney A. Lawrence, deceased.

5. Grandparents: Maternal: Jacob Astor, deceased, Sarah Astor deceased. Paternal: Maurice Lawrence, deceased, Rachel Lawrence, deceased.

6. Brothers and spouses: Sheldon F. Lawrence, deceased. Spouse: No spouse.

7. Sisters and spouses: No sisters.

(The above nomination was reported without recommendation.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of October 5 and 21, 1993, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 5 and 21, 1993 at the end of the Senate proceedings.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-8 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Exec. Rept. No. 103-15).

Treaty Doc. 103-10 Convention on the Limitation Period in the International Sale of Goods, with Protocol (Exec. Rept. No. 103-16).

Treaty Doc. 102-39 Income Tax Convention with the Russian Federation (Exec. Rept. No. 103-17).

Treaty Doc. 102-41 Protocol Amending the 1984 Income Tax Convention with Barbados (Exec. Rept. No. 103-18).

Treaty Doc. 103-6 and 103-19 Tax Convention (and Protocol) with the Kingdom of the Netherlands (Exec. Rept. No. 103-19).

Treaty Doc. 103-7 Income Tax Convention with Mexico, with Protocol (Exec. Rept. No. 103-20).

Treaty Doc. 103-16 Protocol to the Tax Convention with the State of Israel (Exec. Rept. No. 103-21).

Treaty Doc. 103-17 Income Tax Convention with the Czech Republic (Exec. Rept. No. 103-22).

Treaty Doc. 103-18 Income Tax Convention with the Slovak Republic (Exec. Rept. No. 103-23).

By Mr. GLENN, from the Committee on Government Affairs:

Steven Kelman, of Massachusetts, to be Administrator for Federal Procurement Policy.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Barbara Pedersen Holum, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1997;

John E. Tull, Jr., of Arkansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1998;

Wally B. Beyer, of North Dakota, to be Administrator of the Rural Electrification Administration for a term of ten years;

Michael V. Dunn, of Iowa, to be Administrator of the Farmers Home Administration;

Grant B. Buntrock, of South Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation; and

Anthony A. Williams, of Connecticut, to be Chief Financial Officer, Department of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Raymond A. Jackson, of Virginia, to be United States District Judge for the Eastern District of Virginia;

Richard G. Stearns, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Lawrence L. Piersol, of South Dakota, to be United States District Judge for the District of South Dakota;

Donetta W. Ambrose, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania;

Wilkie D. Ferguson, Jr., of Florida, to be United States District Judge for the Southern District of Florida;

Nancy Gertner, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Harry F. Barnes, of Arkansas, to be United States District Judge for the Western District of Arkansas;

Gary L. Lancaster, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania;

David W. Hagen, of Nevada, to be United States District Judge for the District of Nevada;

Reginald C. Lindsay, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Kendall Brindley Coffey, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years;

Patti B. Saris, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Allen G. Schwartz, of New York, to be United States District Judge for the Southern District of New York;

Henry Lee Adams, Jr., of Florida, to be United States District Judge for the Middle District of Florida;

Susan C. Bucklew, of Florida, to be United States District Judge for the Middle District of Florida;

Gerlad Mann Stern, of California, to be Special Counsel, Financial Institutions Fraud Unit, Department of Justice;

John Joseph Kelly, of New Mexico to be United States Attorney for the District of New Mexico for the term of four years;

James Burton Burns, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years;

Alan D. Bersin, of California, to be United States Attorney for the Southern District of California for the term of four years;

Sherry Scheel Matteucci, of Montana, to be United States Attorney for the District of Montana for the term of four years;

Donald Kenneth Stern, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years;

Loretta Collins Argrett, of Maryland, to be an Assistant Attorney General;

Walter Charles Grace, of Illinois, to be United States Attorney for the Southern District of Illinois for the term of four years;

Joseph Leslie Famularo, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years;

Joanna Seybert, of New York, to be United States District Judge for the Eastern District of New York, vice a new position created by Public Law 101-650 approved December 1, 1990;

Martha Craig Daughtrey, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, vice a new position created by Public Law 101-650, approved December 1, 1990;

Thomas M. Shanahan, of Nebraska, to be United States District Judge for the District of Nebraska vice a new position created by Public Law 101-650, approved December 1, 1990;

David G. Trager, of New York, to be United States District Judge for the Eastern District of New York vice a new position created by Public Law 101-650, approved December 1, 1990;

Charles A. Shaw, of Missouri, to be United States District Judge for the Eastern District of Missouri vice a new position created by Public Law 101-650, approved December 1, 1990;

Claudia Wilken, of California, to be United States District Judge for the Northern District of California vice a new position created by Public Law 101-650, approved December 1, 1990;

Patrick Michael Patterson, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years;

Charles Joseph Stevens, of California, to be United States Attorney for the Eastern District of California for the term of four years; and

Katrina Campbell Pflaumer, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. NUNN, from the Committee on Armed Services:

Joe Robert Reeder, of Texas, to be Under Secretary for the Army;

Togo Dennis West, Jr., of the District of Columbia, to be Secretary of the Army; and

Richard Danzig, of the District of Columbia, to be Under Secretary of the Navy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of November 4, 1993 and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 4, 1993 at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Peter F. Hoffman) (Reference No. 48-4).

*Major General Robert L. Ord III, USA to be lieutenant general (Reference No. 213).

*Captain Dennis Irwin Wright, USN to be rear admiral (lower half) (Reference No. 300).

*Colonel Vernon C. Spaulding, USA to be brigadier general (Reference No. 429).

*Major General Malcolm R. O'Neill, USA to be lieutenant general (Reference No. 567).

*Rear Admiral (lower half) Michael William Cramer, USN to be rear admiral (Reference No. 618).

*Lieutenant General Leon E. Salomon, USA to be general (Reference No. 710).

*Lieutenant General Wilson A. Shoffner, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 711).

*Major General James E. Chambers, USAF to be lieutenant general (Reference No. 721).

*Brigadier General John R. Haack, ANG to be major general (Reference No. 737).

*Lieutenant General Eugene H. Fischer, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 780).

*Major General Marcus A. Anderson, USAF to be lieutenant general (Reference No. 781).

*Lieutenant General Teddy G. Allen, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 782).

*In the Army Reserve there are 24 promotions to the grade of major general and below (list begins with Robert J. Byrne) (Reference No. 783).

**In the Air Force there are 44 promotions to the grade of colonel and below (list begins with Robert D. Blevins) (Reference No. 824).

**In the Navy there are 16 appointments to the grade of lieutenant (junior grade) and below (list begins with Robert K. Takesuye) (Reference No. 825).

**In the Navy and Naval Reserve there are 19 appointments to the grade of commander and below (list begins with John D. Sowers) (Reference No. 826).

**In the Navy there are 26 appointments to the grade of ensign (list begins with Ricky D. Allen) (Reference No. 827).

**In the Navy there are 7 appointments to the grade of ensign (list begins with Timothy F. Dolan) (Reference No. 828).

**In the Navy there are 51 appointments to the grade of ensign (list begins with Christopher J. Adams) (Reference No. 829).

**In the Navy there are 29 appointments to the grade of ensign (list begins with James L. Basford) (Reference No. 830).

**In the Marine Corps there are 377 appointments to the grade of second lieutenant (list begins with Harald Aagaard) (Reference No. 831).

**In the Navy there are 127 appointments to the grade of ensign (list begins with Scott M. Allen) (Reference No. 832).

**In the Navy there are 1,036 appointments to the grade of ensign (list begins with Aaron M. Abarbanell) (Reference No. 833).

**Rear Admiral Joseph W. Prueher, USN to be vice admiral (Reference No. 842).

Total: 1,770.

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. HARKIN (for himself, Mr. DANFORTH, Ms. MOSELEY-BRAUN, Mr. GRASSLEY, and Mr. SIMON):

S. 1670. A bill to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COHEN:

S. 1671. A bill to require that promotional products for cigarettes bear labels warning the public of the health dangers associated with cigarette smoking, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 1672. An original bill to revise obsolete laws related to the Cold War; from the Committee on Foreign Relations; placed on the calendar.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1673. A bill to designate the United States courthouse under construction at 611 Broad Street, in Lake Charles, Louisiana, as the "Edwin Ford Hunter, Jr., United States Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1674. A bill to limit the authority of the Secretary of the Army to acquire land adjacent to Abiquiu Dam in New Mexico; to the Committee on Environment and Public Works.

By Mr. GLENN:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

By Mr. MACK:

S. 1676. A bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. HATFIELD:

S. 1677. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH (for himself, Mr. EXON, Mr. DURENBERGER, Mr. SIMPSON, Mr. GREGG, Mr. SHELBY, Mr. LUGAR, Mr. HELMS, Mr. CRAIG, Mr. THURMOND, and Mr. STEVENS):

S. 1678. A bill to amend the Immigration and Nationality Act to provide that public ceremonies for the admission of new citizens shall be conducted solely in English; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1679. A bill to establish a program to develop and demonstrate innovative technologies to combat shoreline erosion, and for other purposes; to the Committee on Environment and Public Works.

S. 1680. A bill to amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

S. 1681. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 1682. A bill to unify the formulation and execution of United States diplomacy; to the Select Committee on Intelligence.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1683. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 1684. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer a deduction for equipment used for environmental purposes; to the Committee on Finance.

By Ms. MOSELEY-BRAUN (for herself, Mr. DOMENICI, Mr. PACKWOOD, and Mr. BINGAMAN):

S. 1685. A bill to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority-and women-owned banks by the Bank Deposit Financial Assistance Program; considered and passed.

By Mr. MURKOWSKI:

S. 1686. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Committee on Indian Affairs.

By Mr. MURKOWSKI (for himself, Mr. GLENN, Mr. SIMPSON, Mr. HOLLINGS, Mr. AKAKA, Mr. D'AMATO, Mr. KOHL, Mr. HEFLIN, Mr. INOUYE, Ms. MIKULSKI, Mr. DURENBERGER, Mr. METZENBAUM, Mr. HATFIELD, Mr. GRASSLEY, Mr. REID, Mr. BENNETT, Mr. PELL, Mr. PRYOR, Mr. LEVIN, Mr. DOMENICI, Mr. BROWN, Mr. WARNER, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. THURMOND, Mr. CHAFEE, Mr. PRESSLER, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. DOLE, Mr. SARBANES, and Mr. STEVENS):

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. HATFIELD):

S. Res. 168. A resolution authorizing the printing with illustrations of a document entitled "Committee on Appropriations, U.S. Senate, 126th anniversary, 1867–1993"; submitted and read.

By Mr. PELL:

S. Res. 169. An original resolution urging a Cabinet-level review of United States-Russia nuclear fuel policy; placed on the calendar.

By Mr. LIEBERMAN:

S. Con. Res. 53. A concurrent resolution to commemorate the 50th anniversary of the heroic rescue of Danish Jews during World War II by the Danish people; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 1671. A bill to require that promotional products for cigarettes bear labels warning the public of the health dangers associated with cigarette smoking, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIGARETTE PROMOTIONAL PRODUCT LABELING ACT

• Mr. COHEN. Mr. President, I introduce legislation to extend the current health warning requirements for cigarette packages and advertisements to items used to promote cigarette products, such as caps, T-shirts, sporting goods, and other merchandise.

Tobacco use is the No. 1 preventable cause of death in the United States today, accounting for almost 500,000 deaths a year and billions of dollars in health care costs. More people die each year in the United States from smoking than from AIDS, suicide, alcohol and drug abuse, car accidents, and fires combined. Tobacco use in this country carries a price tag of approximately $72 billion a year in direct health care costs and lost productivity.

Clearly, the single most effective thing we can do to improve our Nation's health and control health care costs is to stop smoking. Therefore, I am extremely concerned that recent studies show that smoking rates in the United States are going up, particularly among young people, after many years of decline. If we are to put an end to this preventable epidemic, we must accelerate our efforts not only to help more smokers quit, but also to keep young people from lighting up in the first place.

Tragically, over 3,000 American young people start smoking each day, and, despite extensive public health campaigns linking smoking to heart and lung disease, about one third of our teenagers do some smoking by the time they are 18. What is particularly alarming is that children, especially girls, are smoking at younger and younger ages. Tobacco addiction is increasingly a teen-onset disease: 90 percent of all smokers start before they are 21, 60 percent before they are 14, and 22 percent before they are 9.

I am particularly alarmed by the smoking rates for young people in my home State of Maine. Maine has the third highest smoking rate among 18- to 34-year-olds in the United States. Only Tennessee and Kentucky, both major tobacco-producing States, outrank it. Further, the proportion of young people in Maine who have tried smoking is 53.1 percent—the highest of any State in the country.

With more than 1,000 of the tobacco industry's best customers dying every day, and another 3,000 to 5,000 quitting because of health concerns, smokers are literally a dying breed. Therefore, the tobacco industry must find thousands of new customers a day, just to break even, and is now spending almost $4 billion a year on advertising and promotional campaigns to develop new markets.

The tobacco industry claims that it does not target image-conscious young people with its advertisements featuring rugged Marlboro men, model-thin Virginia Slim women, and super-cool cartoon characters. But, the evidence indicates otherwise.

A recent study published in the Journal of the American Medical Association shows that cigarette-smoking "Smooth Joe" Camel is as recognizable to 6-year-olds as Mickey Mouse. The tobacco industry claims that these ads are, in fact, directed to adults, but a second study reported that 94 percent of high school students were able to identify Smooth Joe, compared to 58 percent of adults over age 21.

Smooth Joe has obviously done his job, and the success of the campaign explains, in large part, why Camel cigarettes have become a top seller among teen smokers. Camel cigarettes are now smoked by 33 percent of smokers under 18, compared with less than 1 percent before the Smooth Joe campaign began in 1988.

The Federal Cigarette Labeling and Advertising Act requires that all cigarette packages and advertisements include a label warning that smoking is hazardous to your health. However, promotional products are not covered by the warning label requirement, and manufacturers have taken advantage of the loophole to create millions of walking billboards by outfitting customers in caps, T-shirts, windbreakers, and other merchandise sporting the cigarette brand name or logos.

Cigarette companies are expected to invest $600 million in these giveaway programs this year—up from $190 million in 1988. Meanwhile, spending on billboard, magazine, and bus-shelter advertising—all of which requires a warning label—has plunged 43 percent since 1988.

A number of brands—most notably Marlboro and Camel—have new giveaway campaigns in which they offer gear made for adventure and neat stuff in return for a specified number of coupons that can only be obtained by purchasing cigarettes. The more you smoke, the more neat stuff you can get. While the offer is supposedly only for cigarette smokers 21 and older, these campaigns are clearly targeted to young people, and, since the orders are placed by mail, there is no way of enforcing the age limit.

For example, Marlboro's Adventure Team campaign offers sporting goods such as sleeping bags, backpacks, and Swiss Army watches—all boldly emblazoned with the Marlboro logo—in return for coupons from specially marked packages of cigarettes. One coupon, worth 5 miles, comes with each pack, so the more you smoke, the better the prize.

You can order a Swiss army knife—customized for the Marlboro adventure team—for 210 miles or 42 coupons or a specially designed Marlboro adventure team sleeping bag for 1,350 miles, or 270 coupons. The offer is limited and orders must be received by February 28. That means a young person whose heart is set on the sleeping bag would have to smoke three packs a day between now and the end of February. This is too dear a price for any young person to pay.

Mr. President, the Cigarette Promotional Product Labeling Act which I am introducing today would require prominent health warning labels on all such promotional products. These

items are clearly intended as advertisements and should therefore be treated no differently than billboard, magazine, or other more traditional forms of cigarette advertising.

Further, requiring warning labels on promotional products for cigarettes will not only make the treatment of cigarette advertising more fair, but it will also put a damper on promotional campaigns targeted to young people. In fact, when the Federal Trade Commission extended the warning label requirement for smokeless tobacco to promotional products, the industry largely abandoned its practice of offering free Skoal windbreakers, Copenhagen jean jackets, and other gear. As a smokeless tobacco company executive was quoted recently in the Wall Street Journal: "It would be silly to produce clothes that conspicusously display warning labels."

Mr. President, I urge my colleagues to join me in cosponsoring the Cigarette Promotional Product Labeling Act and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1671

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 "Cigarette Promotional Product Labeling Act".

SEC. 2. WARNING LABELS ON UTILITARIAN OBJECTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any object that is sold or given or caused to be sold or given by any manufacturer, packager, or importer to consumers for their personal use and that displays the brand name, logo, or selling message of any cigarette product, including pens, pencils, clothing, and sporting goods, unless such object bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.";

(2) in subsection (b), by adding at the end the following new paragraph:

"(4) The Federal Trade Commission shall promulgate and implement regulations governing the format of each label statement required by paragraph (4) of subsection (a), to appear—

"(A) in a conspicuous and prominent place on the object;

"(B) in a conspicuous format; and

"(C) in legible type in contrast with all other printed material on the object."; and

(3) in paragraph (1) of subsection (c), by striking "and (3)" each place the phrase appears, and inserting "(3), and (4)".●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1674. A bill to limit the authority of the Secretary of the Army to acquire land adjacent to Abiquiu Dam in New Mexico; to the Committee on Environment and Public Works.

WATER STORAGE AT ABIQUIU DAM

● Mr. DOMENICI. Mr. President, today I introduce a bill that clarifies the intent of Congress regarding Public Law 100-522, which was passed by the 100th Congress and signed into law in 1988. That law, which dealt with water storage at Abiquiu Dam in northern New Mexico, also authorizes the Army Corps of Engineers to acquire lands "necessary to assure proper recreational access" to the lake.

To implement this section, the corps produced a draft environmental impact statement and began holding public scoping hearings. In the course of numerous meetings with the residents of the area, it became obvious that they feared that the corps might proceed with condemnation of all 6,000 acres of flood easement lands around the lake. Such action would severely disrupt the established community.

In April of this year, the corps withdrew the draft EIS and set up a citizens advisory group to permit fuller community involvement and allow more time to resolve the issue. Representatives of the corps continue to meet with the citizens advisory group, in hopes that a solution may be found, but progress is slow, and the residents' concerns about condemnation of the lands are a continuing obstacle.

The legislation will limit the corps to acquiring lands "only from willing sellers." This action will ameliorate the relations between the corps and residents, and should result in a more timely establishment of appropriate recreational access.

In closing, let me reiterate that the original intent of Public Law 100-522 was to help alleviate the communities' problems caused by the lack of appropriate access to existing recreational facilities. I cannot stress enough the importance of reassuring our citizens that the Federal Government does not wish to impose undue hardships on a community, while ostensibly trying to solve their problems.

Mr. President, I urge that the Senate pass this legislation, to reassure our citizens and to facilitate the completion of this previously authorized recreational project.

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. 1674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON LAND ACQUISITION.

Section 1 of the Act entitled "An Act to authorize continued storage of water at Abiquiu Dam in New Mexico", approved October 24, 1988 (43 U.S.C. 620a note), is amended by inserting immediately following "acquire lands" the following: "only from willing sellers".●

By Mr. GLENN:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

GOVERNMENT STREAMLINING AND REFORM ACT OF 1993

● Mr. GLENN. Mr. President, I introduce the Governmental Affairs Committee's Government Streamlining and Reform Act of 1993. This bill reflects the committee's bipartisan revision and consolidation of several bills to create a Commission to consider and make recommendations for reforming the organization and operations of the executive branch of the Federal Government. Joining me in introducing the bill are Senators ROTH, LIEBERMAN, COHEN, AKAKA, GRASSLEY, and KERREY.

We all know that the time is upon us to reform Government. The American people are insisting that we put our house in order and give them a Government that works, that delivers on its promises, that spends the public's tax dollars effectively and efficiently.

The bipartisan bill I am introducing today creates a mechanism to ensure that we make progress in this effort. The Commission established by the bill complements the President's National Performance Review. Moreover, the process for congressional consideration of the Commission's recommendations respects principles of legislative deliberation, while also assuring timely legislative action.

We all know that reforming the Government historically has proven to be very difficult. The bipartisan sponsors of this legislation believe, however, that the approach taken in this legislation provides a real opportunity for meaningful reform.

I ask unanimous consent that the text of the legislation be included in the RECORD.

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

S. 1675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Government Streamlining and Reform Act of 1993".

(b) PURPOSE.—The purpose of this Act is to reduce the costs and increase the effectiveness of the Federal Government by consolidating redundant programs and agencies,

streamlining operations, improving management and personnel systems, and promoting economy, efficiency, consistency, and accountability in Government programs and services.

SEC. 2. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Commission on Government Streamlining and Reform (hereafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall examine and make recommendations to reform the organization and operations of the executive branch of the Federal Government to improve governmental performance while reducing costs. Such recommendations shall promote economy, efficiency, effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(1) consolidate or reorganize programs and agencies in order to—

(A) improve the effective implementation of their statutory missions;

(B) eliminate activities not essential to the effective implementation of statutory missions; or

(C) reduce the duplication of activities among agencies;

(2) reduce paperwork and regulatory requirements consistent with statutory missions that unreasonably burden either the public or Government;

(3) improve management capacity in agencies (including central management agencies) to maximize productivity, effectiveness, and accountability for program results, including the improvement of—

(A) personnel systems (including the appropriate use of contractors);

(B) budgetary systems;

(C) financial systems;

(D) information systems; and

(E) procurement systems;

(4) coordinate the delivery of Government services to improve procedural consistency and convenience to persons dealing with agencies; and

(5) propose criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise.

(c) LIMITATIONS ON COMMISSION RECOMMENDATIONS.—The Commission's recommendations or proposals under this Act may not provide for or have the effect of—

(1) continuing an agency beyond the period authorized by law for its existence;

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by any agency;

(4) eliminating the enforcement functions of an agency, except—

(A) such functions may be transferred to another executive department or independent agency; and

(B) the functions of an independent agency may only be transferred to another independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) APPOINTMENT.—

(1) COMPOSITION.—

(A) The Commission shall be composed of 9 members. No more than 5 members shall be affiliated with any one political party.

(B) Five members shall be appointed by the President, one of whom the President shall designate as the Chairman of the Commission. In selecting individuals for appointment to the Commission, the President shall consult with—

(i) the Majority Leader of the Senate concerning the appointment of one member;

(ii) the Speaker of the House of Representatives concerning the appointment of one member;

(iii) the Minority Leader of the Senate concerning the appointment of one member; and

(iv) the Minority Leader of the House of Representatives concerning the appointment of one member.

(C) One member shall be appointed by the Majority Leader and one by the Minority Leader of the Senate. One member shall be appointed by the Speaker and one by the Minority Leader of the House of Representatives.

(2) MEMBERSHIP.—A member of the Commission may be any citizen of the United States, including any elected or appointed public official, career civil servant, or private citizen.

(3) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(4) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed prior to October 15, 1993.

(e) TERMS.—Each member shall serve until the termination of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—(A) Except for an individual who is chairman of the Commission and is otherwise a Federal officer or employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not a Federal officer or employee shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR.—

(1) APPOINTMENT.—The Commission shall appoint a Director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—(A) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) Upon request of the Director, a Member of Congress or an officer who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(C) Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(k) SUPPORT.—

(1) SUPPORT SERVICES.—The Office of Management and Budget shall provide support services to the Commission.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(l) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(m) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act, such sums to remain available until December 31, 1995.

(o) TERMINATION.—The Commission shall terminate no later than December 31, 1995.

SEC. 3. DEFINITION.

For purposes of this Act the term "agency" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) NATIONAL PERFORMANCE REVIEW.—

(1) SUBMISSION TO COMMISSION.—No later than October 31, 1993, the President may submit to the Commission a report making recommendations to reform the organization and operations of the executive branch of the Federal Government. Such report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(2) COMMISSION REVIEW.—No later than December 31, 1993, the Commission shall submit to the President—

(A) a single legislative proposal (including legislation proposed to be enacted), which

shall consist of all, or any part of, the legislative proposal received from the President under paragraph (1), and any recommendations for further revisions to the legislative proposal; or

(B) a message that the Commission was unable to agree on such a proposal.

(3) SUBMISSION TO THE CONGRESS.—No later than 30 calendar days after receiving a single legislative proposal (including legislation proposed to be enacted) from the Commission, the President shall—

(A) submit such legislative proposal without modification, except for any revisions consistent with the Commission's recommendations, to the Congress for legislative action under section 6; or

(B) transmit to the Congress a message stating that he is not transmitting such legislative proposal for legislative action under section 6, together with a statement of the reasons for doing so.

(b) IN GENERAL.—No later than March 31, 1995, the Commission shall prepare and submit no more than three preliminary reports to the President and Congress, each of which shall include—

(1) a description of the Commission's findings and recommendations regarding reform of the organization and operations of the executive branch, taking into account any recommendations submitted by the President to the Congress under subsection (a);

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(c) COMMISSION VOTES.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President without the affirmative vote of at least 7 members.

(d) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information within 30 calendar days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORTS.

(a) PRELIMINARY REPORT AND REVIEW PROCEDURE.—Any preliminary report submitted to the President and Congress under section 4(b) shall be made immediately available to the public. During the 60-day period beginning on the date on which the preliminary report is submitted, the Commission shall announce and hold public hearings for the purpose of receiving comments on the reports.

(b) FINAL REPORT.—No later than 45 days after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President.

(c) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—No later than 15 calendar days after receipt of a final report under subsection (b), the President shall approve or disapprove the report.

(2) APPROVAL.—If the report is approved, the President shall submit the report to the Congress for legislative action under section 6.

(3) DISAPPROVAL.—If the President disapproves a final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and the Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report based on such issues and objections. No later than 30 calendar days after receipt of the President's disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President. No later than 14 calendar days after receiving such final report, the President shall submit such report (without modification) for legislative action under section 6, or transmit a message to the Congress stating that he is not transmitting such report for legislative action under section 6 and stating the reasons for so doing.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "implementation bill" means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation—

(A) included in the final report submitted to the Congress under section 5(c) (2) or (4), without modification; or

(B) included in the recommendations submitted by the President under section 4(a)(3); and

(2) the term "calendar day of session" means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day of session on which both Houses are in session, on or immediately following the date on which a proposal is submitted to the Congress under section 4(a)(3) or a final report is submitted to the Congress under section 5(c) (2) or (4), an implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee, or committees for consideration of those provisions within their respective jurisdictions. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is germane to such bill.

(3) REPORT OR DISCHARGE.—If any committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day of session after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from all committees, such bill shall be placed on the appropriate calendar.

(c) SENATE CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth calendar day of session after the date on which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been disagreed to) for any Senator to make a privileged motion to proceed to the consideration of the implementation bill (but only on the day after the calendar day on which such Senator announces on the floor of the Senate an intention to make such motion). The motion is not debatable. All points of order against the implementation bill (and against consideration of the implementation bill) other than points of order under Senate Rule 15, 16, or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) DEBATE.—In the Senate, no amendment which is not germane to the bill shall be in order. A motion to postpone is not in order. A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) MOTION TO SUSPEND OR WAIVE APPLICATION.—No motion to suspend or waive the application of this subsection shall be in order, nor shall it be in order for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(4) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—At any time on or after the fifth session day after the date on which each committee of the House of Representatives to which an implementation bill is referred has reported that bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill. All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by title under the five-minute rule and each title shall be considered as having been read.

(2) AMENDMENTS.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) FINAL PASSAGE.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be

considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(e) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days of session after the appointment of conferees, the conferees shall report to their respective Houses.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report and the Act enacted under section 6 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementation and shall proceed with the recommendations contained in the report as provided under subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary's assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO OVERSIGHT.—The Comptroller General shall periodically report to the Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.●

By Mr. HATFIELD:

S. 1677. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Register of Conventional Arms; to the Committee on Foreign Relations.

CODE OF CONDUCT ON ARMS TRANSFERS ACT OF 1993

● Mr. HATFIELD. Madam President, the debate on the North American Free-Trade Agreement has drawn us into a larger discussion of our role in the world and whether or not our trade and foreign policy will turn inward toward isolationism. This has been very much on my mind as I have worked on of the bill I am introducing today.

To put it simply, trade is not necessarily good for its own sake. There is one significant sector of our export economy which not only undermines our own security but contributes to destabilization in the developing world. I am talking about conventional arms transfers.

Gen. Dwight David Eisenhower framed the issue best in a statement he made 40 years ago. He said:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the houses of its children.

The end of the cold war has left our defenses and foreign policy in limbo. We no longer look at world crises through the lens of bipolar relations with the Soviet Union—it is not so simple as the United States versus the Evil Empire. We are facing wars caused by ethnic tensions and because basic human needs are not being met.

Against the backdrop of these conflicts we now struggle to define our national interests and to set perimeters for intervention. We consider many options: Do we act as the world's policeman? Or do we retreat into a new isolationism? And under what circumstances do we use force? When there is a threat to a fellow democracy? When human rights are abused? Or only when there are direct threats to U.S. territory or citizens?

Our effort to shape a new definition of security encompasses more than decisions about when we use our military. Our actions must conform with our desire to head off confrontations before they occur. This is why we have sought to eradicate weapons of mass destruction—nuclear, biological, chemical; they all present grave dangers as some nations rush to acquire technology. And due to our efforts we can point with hope to some success, such as the Chemical Weapons Convention, which is now open for signature.

We cannot discount conventional weapons proliferation as a lurking threat. Where does this military hardware come from? Mostly from the developed world. Seventy-five percent of all arms exports are sold by the so-called Permanent Five nations—those nations which sit on the U.N. Security Council. But arms are made everywhere. More than 30 developing nations also produce some type of conventional weapons.

Arms are bought everywhere, too. The largest purchases of conventional weapons are made in the most unstable regions of the world, such as the Middle East and Asia. A post-gulf war buying spree by Middle Eastern nations is winding down only after massive purchases of advanced weapons have been completed. The Saudi purchase of 72 F-15 fighters was promoted by then-President Bush as a jobs issue. The usual critics of sales to Arab countries were silenced by Saudi support during the war.

Asian arms purchases are escalating as the Koreas, India, Pakistan and other Asian nations now account for 35 percent of the world share of purchases. Conventional weapons sales threaten not only security from the outside, but also from within as the world's poorest nations expend the highest percentage of their government funds on the military and the servicing of debt—38 percent.

Even knowing these dangers, efforts to enforce embargoes on arms transfers are often less than vigorous. In former Yugoslavia, the Danube was clogged with ships containing arms and petroleum products in violation of the embargo—and many of the illegal shipments were initiated in countries allied to the United States. The first embargo of Haiti similarly had poor enforcement.

As we increase global scrutiny of conventional arms transfers, the place to seek change is in the United States. The unraveling of the Soviet Union has left the United States as the major weapons supplier. In 1992 the United States delivered more than 45 percent of all major combat systems worldwide. The U.S. share of arms sales agreements with the Third World increased in 1992 to over 56 percent.

There is a vacuum of leadership on the issue of arms transfers. Whenever a crisis emerges there is renewed interest in conventional nonproliferation but that interest soon fades as the spotlight turns to the shortsighted commercial question of who gets the jobs and the profits from arms exports, foreign policy nuances, or to technological advancement.

So on the one hand, you have the U.S. government comfortably establishing itself as the world's arms peddler, while at the same time there is little more than lipservice given to conventional nonproliferation initiatives.

I am stunned that the restraint of conventional arms is not our top priority. Conventional warfare is more than just a threat—it is a reality: it is responsible for the loss of over 40 million lives in the 150 conflicts since 1945.

But not only is this issue not our top priority, it is barely on our radar screen. Congress has oversight over Foreign Military Sales through the authorization and appropriations process. In addition, Congress has limited ability to block arms sales. But it is difficult for Congress to block such a sale because both the House and Senate must pass identical joint resolutions stating their opposition. Such a resolution may be vetoed by the President.

And despite the fact that oversight is conducted among the dozen Federal agencies which have responsibility over non-proliferation activities, no recent administration has developed comprehensive policies on arms sales or transfers. Instead, the agencies hold competing goals of restraining or promoting sales. During the previous administration the State Department Office of Munitions Control which licenses commercial defense trade was overhauled and renamed the Center for Defense Trade. More recently, the Commerce Department has reiterated its intent to actively promote U.S. weaponry to foreign clients, to the point of sending the Secretary to hawk U.S. technology at the Paris Air Show.

Clearly there needs to be an overhaul of our method of scrutinizing, approving or rejecting planned arms sales. We must reject the old excuse that "If the United States does not sell these weapons then another nation will." We must reject the idea that sensitive weapons sales are acceptable methods to achieve short-term foreign policy gains. It is time for arms control to take precedence over commerce. It is time we took seriously the questions about "Who armed Iraq?" or "Who armed Somalia?"

After all, during the 1980's, Somalia's dictator, Siad Barre, spent 38 percent of his budget on the military and in exchange for base rights the United States gave Barre $195 million in taxpayer-funded weapons. Our military now faces the heavily armed Somali thugs as the Barre dictatorship's downfall has led to a complete collapse of civil society.

I am not naive: If we are able to achieve the reform of U.S. arms transfer policy, we still will see only minimal impact unless we restrain the arms trade globally. Success ultimately depends upon multilateral cooperation. The United Nations Arms Register, which discloses arms sales by U.N. member nations and thus promotes transparency, is a good start. We need to focus on the creation of a global understanding that these arms are robbing us all of our true national security as defined in the broadest terms. And the United States, as the world's sole superpower, must lead this effort.

How do we lead? There are many proposals worthy of our consideration. We could consider regional agreements which commit nations to arms control goals. We can also promote more strongly defense conversion, which will lessen the interest in commercial sales as fewer U.S. companies manufacture arms. In addition, we should insist upon greater scrutiny of bilateral and multilateral loans to nations which expend excessively on armed forces, in the attempt to reduce militarization.

After reviewing the options, I have decided to focus on the proposal known as the Code of Conduct on Arms Transfers. This proposal has been promoted by arms control organizations in Europe and here in the United States. Its intent is to create a world-wide code of standards by which each nation judges the merits of a conventional weapons sale.

I have translated this proposal into the bill which I am introducing today. An identical bill is being introduced by my House colleague, Representative CYNTHIA MCKINNEY. The Code of Conduct creates specific criteria by which to judge each planned arms sale.

This Code of Conduct permits U.S. arms transfers only to democratic nations which respect human rights and have civilian control over the military. It would also prohibit arms exports to nations who are engaged in armed conflict or to nations which refuse to participate in the U.N. registry.

I have no illusions—I expect this proposal will meet stiff opposition by those who support arms sales. But this issue is too important to ignore. I believe that Congress is the change agent in this debate because no recent administration has been willing to tackle the problem. And I think that the American people are ready to decide whether or not they want their nation to continue its role as the world's weapons pusher.

A tremendous grassroots effort is already underway and I am pleased a number of international development, human rights, religious, arms control, and economic conversion groups have endorsed the Code of Conduct campaign. I thank them for all their efforts, which have been crucial to the development of this legislation.

I urge my colleagues to lend their name to this important effort.●

By Mr. FAIRCLOTH (for himself, Mr. EXON, Mr. DURENBERGER, Mr. SIMPSON, Mr. GREGG, Mr. SHELBY, Mr. LUGAR, Mr. HELMS, Mr. CRAIG, Mr. THURMOND, and Mr. STEVENS):

S. 1678. A bill to amend the Immigration and Nationality Act to provide that public ceremonies for the admission of new citizens shall be conducted solely in English; to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1993

Mr. FAIRCLOTH. Mr. President, the United States is a unique Nation. Americans trace their ancestors to literally every part of the globe. Americans come in almost every race, nationality, and religion under the Sun. We are a very diverse people.

That is no small fact. The American experiment is about whether such a diverse collection of people can function as a nation. Most other nations in the world are far more homogeneous than the United States, and those that aren't are more often than not torn by ethnic and religious strife.

From Bosnia, to South Africa, to any one of a dozen other countries that have significant internal cultural differences, we learn over and over again that the United States is the exception, not the rule in its ability to assimilate people from many nations into a common society.

What makes America different is that we have come to accept, over time, a common set of rules by which we in our society interact with each other. We can tolerate our differences, because we have shared laws and customs that everyone is expected to live by.

Similarly, Mr. President, here in the Senate—where we represent different States, different parties, and different ideologies—the peoples' business gets conducted because we as Senators have agreed to a set of rules, a means by which Senate business is conducted in a civil manner.

The rules of society, like the rules of the Senate, are the glue that holds us together. Take away that glue, those laws and customs, and the American experiment fails. We would become another example of ethnic strife.

Mr. President, of those common values and accepted ways of conducting ourselves, perhaps the single greatest common thread that unites our diverse peoples is language.

For generations, immigrants coming into this country understood that if they studied hard, learned the English language, and applied themselves, then they could be whatever they wanted to be. They understood that if they failed to learn English—a big part of that cohesiveness which holds us together—and provides the cohesiveness that we need to function as one society—then they could never expect to achieve their full potential.

My own ancestors emigrated from Scotland and settled in eastern North Carolina. My grandmother spoke Gaelic fluently up until her death but she was taught English first because that was the most important thing for all new citizens to know—how to speak English. It was, and still is, the common bond that holds us together.

Immigrants understood that while they should be justifiably proud of their heritage and their native language, that they were now Americans. And being an American meant, among other things, speaking the language of America.

For generations, that was the bargain, the rich heritage that immigrants brought to the country made America stronger, and America gave those same immigrants a better way of life than they could possibly hope to attain in their native lands. But the price of that bargain was that people coming to America were expected to learn English, the language of America.

Now, however, a dangerous trend is occurring. People entering the United States sometimes no longer feel that it is necessary to learn the English language. What's worse, it is a trend which is being reinforced by the Immigration and Naturalization Service.

Earlier this year, INS for the first time began conducting Spanish language naturalization ceremonies for new citizens. By doing so, the Immigration and Naturalization Service is doing a grave disservice to those new citizens and to this Nation. It is leading those new citizens to believe that they do not have to be proficient in the English language in order to succeed and function in America, and it is undermining the common thread that binds us together and makes us all Americans.

Mr. President, the bill I am introducing today is simple. It does not require that new citizens speak English as a first language. But it does require that the Immigration and Naturalization Service's ceremonies for admission of new citizens be in the English language.

It is important that the Government of the United States be clear; if you are a legal immigrant, and meet the requirements of citizenship, you are welcome here. But no matter what your nationality, no matter what your first language, you are expected to become a part of American society, and that means that the tie that holds us together is English.

It just makes common sense that all citizenship ceremonies in this country should be held in the language of the United States, the English language.

Mr. President, I invite all other Members of the Senate to join me in this effort, and ask for their support for the bill.

By Mr. LAUTENBERG:

S. 1679. A bill to establish a program to develop and demonstrate innovative technologies to combat shoreline erosion and for other purposes; to the Committee on Environment and Public Works.

SHORELINE EROSION CONTROL DEMONSTRATION ACT OF 1993

• Mr. LAUTENBERG. Mr. President, I introduce legislation that will spur the development of innovative means to protect our shores from rapid erosion. The Shoreline Erosion Control Demonstration Act of 1993 draws upon a 5-year demonstration program enacted in 1974, which generated valuable information about low cost methods to retard the shoreline erosion process. The proposed program benefits from lessons learned in the first go-around.

Beach erosion is a serious threat to coastal communities throughout the United States and the world. Storms like last December's northeaster, which swept away beaches and sand dunes in my region of the country, cause endless cycles of erosion. To assist shorefront communities in combating erosion, the Federal Government has invested $8 billion in sand replenishment projects over the last two decades, and emergency management agencies, States and local communities have contributed billions more. While hauling in sand from other sites successfully extends the width of beaches, this sand can easily vanish with the next storm.

The bill I am introducing today will minimize this ongoing burden on taxpayers while developing innovative technologies to preserve our shoreline. It offers both alternatives to beach nourishment, and technologies that will work together with nourishment to keep the added sand from washing away as quickly. This would serve to extend the life of each costly nourishment project.

An example of such a technology is the beachsaver reef that was recently installed at a barrier island beach in Avalon, NJ, which is the first of three test sites in the State. The artificial reef is a ramp-shaped concrete structure comprised of interlocking modules. It is submerged at about 250 feet off the shore and parallel to it. The reef is intended to absorb the shock of crashing waves, creating a vertical curtain of water and preventing sand from moving off the shore.

Innovative technologies such as this can save millions of dollars in beach preservation costs that are expended in the interest of protecting shorefront habitats, residences and businesses. Beach preservation technology will also increase the shoreline's ability to support the tourism industry. In New Jersey, our shore is a vital part of our State's economy. Beach communities and shore-related businesses contribute over $9 billion to the State's $18 billion tourism sector. Over 350,000 people are employed serving this industry in some capacity.

The Shoreline Erosion Control Demonstration Act of 1993 will contribute to our economy in yet another way. Federal assistance will help small American companies to develop and prove technologies that are exportable to other countries experiencing severe erosion problems.

Mr. President, this bill does not authorize any additional appropriations for the demonstration program. By amending an existing small beach protection program, the bill enables the Corps of Engineers to more fully utilize the $30 million already authorized under that program. Only $1.5 to $2.5 million of the $30 million authorized has been appropriated in any given year.

This program is a fraction of the estimated $400 million that the Federal Government has spent annually on beach replenishment over the last two decades. Yet it will significantly reduce the amount that needs to be spent each year on replenishment by encouraging technologies that extend the life of ongoing replenishment projects. It is estimated that the beachsaver reef installed in Avalon will extend the life of each 5-year nourishment cycle by 3 years, thereby saving some $15 million over the 50-year life of the nourishment project. In a similar experiment at Palm Beach, FL, a 650-foot offshore reef already paid for itself over one winter, according to a town council member. She stated that "out of no beach—there were waves lapping at the base of a seawall at low tide—has emerged a good 60 feet of beach at mean high water." The bill that I am introducing today will drive the research, development and demonstration of such technologies.

The Shoreline Erosion Control Demonstration Act authorizes the Corps of Engineers, the Federal agency with expertise and experience in shoreline erosion, to award grants for planning, designing, constructing, and monitoring prototype shoreline erosion control devices and programs. The corps must also submit detailed reports on each project and coordinate technology transfers to private property owners and State and local entities.

The projects selected will emphasize natural designs or minimal permanent structural alterations at the site. The bill will promote projects that minimize any negative impact on adjacent shorefront communities and avoid impairing the aesthetic appeal of a site through their placement. In selecting projects, the Corps of Engineers will also consider the findings that evaluations of the original demonstration program provide.

Among the important lessons from the 1974 program is the need for adequate time to monitor demonstration projects. The program's final report to Congress stated that "many of the demonstration projects were maintained for less than one year and a fair evaluation may not be possible or presented in all cases." The report also mentions that "structures that can remain in place for the first few years will tend to remain in place for much longer than 10 years", indicating that a few years of monitoring is needed. To ensure that this program derives the maximum educational benefit from each project, the program is authorized for a total of 8 years, the final 3 of

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which are devoted exclusively to monitoring projects undertaken in earlier years.

I urge my colleagues to support this legislation, which would broaden the scope of more traditional Corps of Engineers activities to encourage innovation. The technology that is developed as a result of this program will not only benefit shorefront communities but can make a vital difference to all local and regional economies that depend on tourism for jobs and economic activity. It can also become a source of American exports as it promotes innovations in shore protection and replenishment.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1679

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 "Shoreline Erosion Control Demonstration Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that it is essential to develop, demonstrate, and disseminate innovative technologies to prevent and control shoreline erosion because of—

(1) the importance and increasing interest in the coastal and estuarine zone of the United States;

(2) the deterioration of the shoreline within the zone resulting from erosion;

(3) the harm to water quality and marine life from shoreline erosion;

(4) the loss of recreational potential resulting from shoreline erosion;

(5) the financial loss to private and public landowners resulting from shoreline erosion;

(6) the inability of private and public landowners to obtain satisfactory financial and technical assistance to combat shoreline erosion; and

(7) the loss of structures or landmarks of historic significance.

(b) PURPOSE.—It is the purpose of this section to establish a program to develop, demonstrate, and disseminate information about innovative technologies to combat shoreline erosion.

SEC. 3. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

The Act of August 13, 1946 (60 Stat. 1056, chapter 960; 33 U.S.C. 426e et seq.), is amended by adding at the end the following new section:

"SEC. 5. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

"(a) DEFINITIONS.—As used in this section:

"(1) SHELTERED WATERS.—The term 'sheltered waters' means tidal waters that are not exposed to the unmitigated forces of open ocean waves and currents.

"(2) COST EFFECTIVE SHORE PROTECTION.—The term 'cost effective shore protection' means the most efficient design that can solve the erosion problem at a given site, taking into account the life cycle cost of the project, including cleanup, maintenance, and amortization.

"(b) ESTABLISHMENT OF NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.—The Secretary of the Army (referred to in this section as the 'Secretary'), acting through the Chief of Engineers, shall establish and conduct a national shoreline erosion control development and demonstration program (referred to in this section as the 'program') for a period of 8 years beginning on the date that funds are made available to carry out this section.

"(c) REQUIREMENTS.—

"(1) IN GENERAL.—The program shall include provisions for—

"(A) planning, designing, and constructing prototype engineered and vegetative shoreline erosion control devices and projects during the first 5 years of the program;

"(B) adequate monitoring of prototypes throughout the duration of the program;

"(C) detailed engineering and environmental reports on the results of each project in the program; and

"(D) technology transfers to private property owners and State and local entities.

"(2) EMPHASIS.—Demonstration projects established pursuant to this section shall emphasize, to the extent practicable—

"(A) the development and demonstration of innovative technologies;

"(B) cost effective shore protection;

"(C) natural designs, including the use of vegetation or temporary structures that minimize permanent structural alterations;

"(D) the avoidance of negative impacts to adjacent shorefront communities;

"(E) in areas with substantial residential or commercial interests adjacent to the shoreline, designs that do not impair their aesthetic appeal;

"(F) the potential for long-term protection afforded by the technology; and

"(G) lessons from evaluations of the original 1974 program, including—

"(i) adequate consideration of the subgrade;

"(ii) proper filtration;

"(iii) durable components;

"(iv) adequate connection between units; and

"(v) additional relevant information.

"(3) SITES.—

"(A) IN GENERAL.—Shoreline erosion control demonstration projects shall be undertaken at publicly or privately owned sites on open coast or sheltered waters.

"(B) SELECTION.—The Secretary shall develop site selection criteria, including—

"(i) a variety of geographical and climatic conditions;

"(ii) the size of the population that is dependent on the beaches for recreation, protection of homes, or commercial interests;

"(iii) the rate of erosion;

"(iv) significant natural resources or habitats and environmentally sensitive areas; and

"(v) significant threatened historic structures or landmarks.

"(C) AREAS.—Projects shall be undertaken at no less than 2 sites on each of the shores of—

"(i) the Atlantic, Gulf, and Pacific coasts;

"(ii) the Great Lakes; and

"(iii) the State of Alaska.

"(d) COOPERATION.—

"(1) PARTIES.—The program shall be carried out in cooperation with—

"(A) the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion;

"(B) Federal, State, and local agencies;

"(C) private organizations;

"(D) the Coastal Engineering Research Center established by the first section of Public Law 88–172 (33 U.S.C. 426–1); and

"(E) university research facilities.

"(2) AGREEMENTS.—Such cooperation may include entering into agreements with other Federal, State, or local agencies or private organizations, to undertake functions in subsection (c)(1) where appropriate.

"(e) REPORTS.—

"(1) IN GENERAL.—The Secretary, acting through the Chief of Engineers, shall annually prepare and submit a program progress report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(2) GENERAL REPORT.—The final report shall be submitted not later than 60 days after the conclusion of the program, and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program, and recommendations regarding its continuation.

"(f) FUNDING.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of the cost of a project under this section shall be determined in accordance with section 3.

"(2) RESPONSIBILITY.—The cost of and responsibility for operation and maintenance of a project not including monitoring, under the program shall be borne by non-Federal sponsors upon completion of construction of the project.

"(3) COST SHARE ADJUSTMENT.—The cost share requirements for projects on public lands that provide for full public access may be adjusted by the Secretary for projects in sponsoring communities that are experiencing financial hardship, as defined by the Secretary, at the time the project is selected.".

SEC. 4. CONFORMING AMENDMENT.

Section 1(e) of the Act of August 13, 1946 (60 Stat. 1056, chapter 960; 33 U.S.C. 426e(e)), is amended by striking "section 3" and inserting "sections 3 and 5".●

By Mr. LAUTENBERG:

S. 1680. A bill to amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

SMOKE-FREE ENVIRONMENT ACT OF 1993

● Mr. LAUTENBERG. Mr. President, I introduce the Smoke-Free Environment Act of 1993. It is fitting that I introduce this legislation today, because November 18 is the Great American Smoke Out: A day when many Americans will kick the habit and save their lives. They will decide to no longer inhale deadly tobacco smoke. That decision is commendable. But even after an individual makes that decision, they can still be forced to involuntarily inhale deadly tobacco smoke. I want to make sure that once people decide to quit smoking, they quit being exposed to smoke. And that is why I introduce this legislation that will make all public buildings smoke free and prevent people from being exposed to secondhand smoke.

Mr. President, secondhand smoke is a killer. It causes 3,000 lung cancer deaths per year. The EPA has classified secondhand smoke, which is also called environmental tobacco, as a group A carcinogen, like arsenic, benzene, and

asbestos. Despite this classification, secondhand smoke is still prevalent in many of our public buildings.

This is why I rise today to introduce the Smoke-Free Environment Act of 1993. This bill will require all public facilities to be smoke free. The bill defines a public facility as any facility that is visited by 10 or more persons at least 1 day per week. In order to comply with this law, the owner or lessee of a public facility must either prohibit smoking indoors altogether or allow it only in a smoking room that is separately ventilated to the outdoors. The EPA Administrator could grant a waiver of this requirement to an entity if it can prove that unusual and extenuating circumstances prevent total compliance. Anyone who is aggrieved under this act may bring a suit to Federal Court. The court may issue a civil penalty of up to $5,000 per day to any person not complying with this act within 60 days after a suit has been filed.

Mr. President, an EPA report released on January 7, 1993, undeniably confirmed what public health officials have reported for several years, smoking kills those who smoke and those who breath secondhand smoke.

The evidence is also clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA report, 3,000 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke.

Mr. President, at this point I would like to remind my colleagues that in 1988 we passed the Clean Air Act to regulate 189 substances that caused 1,500 deaths per year. But we have done little to fight an indoor air pollutant that causes at least twice as many deaths per year.

Secondhand smoke also causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children.

This EPA report was twice reviewed by an EPA Science Advisory Board and was approved unanimously by the scientists on this panel.

In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease and emphysema. They reported that approximately 50 percent of all children are exposed to secondhand smoke.

Now that the evidence is in, it is time for the Congress to take action and protect Americans from this deadly substance.

This legislation takes an important first step to protect Americans from unwanted exposure to deadly secondhand smoke. This legislation expands the nonsmoking policy, that already is in place at the U.S. Department of Health and Human Services, the Environmental Protection Agency, the U.S. Postal Service, and the Veterans Administration to all public facilities, including those remaining Federal buildings.

This legislation simply builds on what the EPA is recommending. On July 21, 1993, the EPA issued a brochure making recommendations on how employers should deal with secondhand smoke. In the private workplace, EPA recommends:

> Prohibiting smoking indoors or limiting smoking to rooms that have been specially designed to prevent smoke from escaping to other areas of the building are two options that will effectively protect nonsmoker.

Furthermore, the Supreme Court recently ruled that it was cruel and unusual punishment for prisoners to be exposed to secondhand smoke. If it is cruel and unusual for prisoners, why can't we protect those who work and visit public facilities?

Once again, now that the studies are completed, it is time to take action to protect people from the dangers of secondhand smoke. The Department of Health and Human Services initially banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. It is time to afford this same protection to people who work and visit public facilities.

As a Department of Health and Human Services report notes:

> Twenty-five years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke.

We've come a long way, baby. But we still have a way to go.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society and the Building Owners and Managers Association [BOMA].

I ask unanimous consent that the text of this legislation be printed in the RECORD. I urge my colleagues to cosponsor this legislation.

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

S. 1680

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 "Smoke-Free Environment Act of 1993".

SEC. 2. UNIFORM INDOOR AIR POLICY.

(a) IN GENERAL.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following new title:

"TITLE V—UNIFORM INDOOR AIR POLICY WITH RESPECT TO ENVIRONMENTAL TOBACCO SMOKE

"SEC. 501. PURPOSE.

The purpose of this title is to establish a uniform indoor air standard for public facilities with respect to environmental tobacco smoke.

"SEC. 502. DEFINITIONS.

"As used in this title:

"(1) ENVIRONMENTAL TOBACCO SMOKE.—The term 'environmental tobacco smoke' means smoke emitted from a cigarette, cigar, or pipe, or any other combustion of tobacco.

"(2) PUBLIC FACILITY.—The term 'public facility'—

"(A) means a building regularly entered by 10 or more individuals at least 1 day per week, including a building owned by or leased to a Federal, State, or local government entity; and

"(B) does not include a building or portion of a building regularly used for residential purposes.

"(3) RESPONSIBLE ENTITY.—The term 'responsible entity' means, with respect to a public facility, the owner of the facility, except that in the case of a facility or portion of a facility that is leased, the term means the lessee of the facility.

"SEC. 503. UNIFORM INDOOR AIR POLICY.

"(a) REQUIREMENT OF POLICY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the responsible entity for each public facility shall adopt and carry out at the facility a uniform indoor air policy that meets the requirements of paragraph (2).

"(2) ELEMENTS OF POLICY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each uniform indoor air policy for a public facility shall—

"(i) prohibit the emission of environmental tobacco smoke within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

"(ii) post a clear and prominent notice of the prohibition specified in clause (i) in appropriate and visible locations at the public facility.

"(B) EXCEPTION FOR SPECIALLY DESIGNATED SMOKING AREAS.—

"(i) IN GENERAL.—A uniform indoor air policy may provide an exception to the prohibition specified in subparagraph (A)(i) for 1 or more specially designated smoking areas within a public facility if each area meets the requirements of clause (ii).

"(ii) REQUIREMENTS.—An area meets the requirements for a specially designated smoking area referred to in clause (i) if—

"(I) the area is ventilated in accordance with specifications issued by the Administrator that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility; and

"(II) nonsmoking individuals do not have to enter the area for any purpose.

"(b) WAIVERS.—

"(1) IN GENERAL.—A responsible entity for a public facility may petition the Administrator for a waiver from compliance with subsection (a). If the Administrator determines that the public facility is subject to unusual and extenuating circumstances that prevent the compliance, the Administrator may grant the waiver and instead require that the facility protect nonsmokers to the maximum extent practicable.

"(2) TERM OF WAIVER.—Each waiver granted under this subsection shall be for a period of not to exceed 1 year.

"(3) PUBLICATION.—Each petition for a waiver and a summary of subsequent actions taken by the Administrator shall be published in the Federal Register.

"(4) REPORT TO CONGRESS.—The Administrator shall annually report to Congress on all waivers granted during the preceding year.

"SEC. 504. ENFORCEMENT.

"(a) PENALTIES.—

"(1) IN GENERAL.—A person subject to section 503 who fails to comply with such section shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each day during which the violation continues.

"(2) USE OF PENALTIES.—A court may order that a civil penalty imposed under this section be used for projects that further the purpose of this title. The court shall obtain the view of the Administrator in determining whether to issue an order described in the preceding sentence and in selecting the projects.

"(b) BRINGING OF ACTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), an action to enforce section 503 may be brought by a person aggrieved by a violation of such section, a State or local government agency, or the Administrator.

"(2) NOTICE.—An aggrieved person referred to in paragraph (1) shall give an alleged violator notice of the alleged violation not less than 60 days before bringing an action under this section. An aggrieved person may not bring an action under this section if the alleged violator complies with section 503 within the 60-day period and thereafter.

"(c) VENUE.—An action to enjoin a violation of section 503 or to impose a civil penalty for a violation of such section may be brought in a district court of the United States for the district in which the defendant resides or is doing business. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce section 503 and to impose civil penalties under this section.

"(d) COSTS.—In issuing a final order in an action brought under this section, a court may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing plaintiff, if the court determines that the award is appropriate.

"SEC. 505. PREEMPTION.

"Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law that provides protection from health hazards from environmental tobacco smoke.

"SEC. 506. REGULATIONS.

"The Administrator may issue such regulations as the Administrator considers necessary to carry out this title.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall become effective on the date that is 1 year after the date of enactment of this Act.•

By Mr. LAUTENBERG:

S. 1681. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

MUNICIPAL WASTEWATER TREATMENT PRIVATE INVESTMENT ACT

• Mr. LAUTENBERG. Mr. President, I introduce the Municipal Wastewater Treatment Private Investment Act. This bill will remove an impediment to private investment in municipal wastewater treatment facilities and in doing so, will improve water quality, provide increased fiscal flexibility to local governments, and create jobs.

Mr. President, our Nation's waters are a priceless resource, they provide recreational opportunities, habitat for fish and wildlife, and drinking water among other uses. but we cannot assure our citizens that our waterways will be clean unless we have adequate wastewater treatment facilities.

Our wastewater treatment needs are staggering. According to the 1992 EPA National Needs Survey, it will cost the United States $127.1 billion to build necessary wastewater treatment facilities. My State of New Jersey's wastewater treatment needs alone are $4.756 billion. This includes close to $2 billion for wastewater treatment plants necessary for compliance with the Clean Water Act and an estimated $1.29 billion to reduce discharges of bacteria, garbage, and other floatable debris and other untreated waste from combined sewer overflows. The remaining needs are to construct new sewers and repair existing sewers.

Federal dollars are necessary, but insufficient, to build these facilities. President Clinton has proposed to invest $2 billion a year for State municipal wastewater treatment facility revolving loan funds. This funding level alone is insufficient to pay the costs local communities will have to bear to comply with the Clean Water Act. In addition, State revolving loan assistance will have to address other water quality needs such as storm water and nonpoint source pollution.

Local communities are looking increasingly to privatization of local governmental programs as a way to pay for these programs. This is an obvious way for them to deflect the costs associated with Federal requirements, which are eating into their budgets. And the Federal Government should do everything possible to assist these efforts.

In 1992, President Bush issued Executive order 12803 which made it easier for local governments to privatize facilities that have received Federal financing—including wastewater treatment facilities. EPA Administrator Carol Browner has expressed her support to continue these efforts. In a letter she recently wrote to Mr. Edward Limbach, vice-president of the American Water Works Co. in Voorhees, NJ, Ms. Browner said:

[W]e need to provide communities the opportunity to work more closely with the private sector in financing environmental infrastructure. Local officials are in the best position to develop capital financing structures that meet their particular needs. We find that communities throughout the Nation are taking the lead in "reinventing government" and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand.

EPA has an initiative underway to encourage private investment in wastewater treatment facilities.

I urge the Congress to join with the administration in providing flexibility to local officials struggling to address the wastewater needs of this country. One problem identified by EPA which requires legislation concerns the phrase publicly owned treatment works or POTW's. This is the phrase used in the Clean Water Act to identify what we all know to be municipal sewage facilities. Under the act, POTWs are required to provide a level of treatment known as secondary treatment. Other dischargers must comply with best available technology standards.

The various privatization and public-private partnership arrangements that communities seek to enter raise questions concerning which standards wastewater treatment facilities benefiting from private participation must meet. Since such a facility would not be a publicly owned treatment work, different environmental standards might apply to sewage plants solely based on ownership of the wastewater treatment facility rather than on the public and environmental benefit it serves. The uncertainty regarding the environmental standard governing such facilities is hampering private investment in wastewater treatment facilities.

My bill would define "publicly owned treatment works" to include wastewater facilities which are privatized or jointly owned by public and private partners. It would remove the uncertainty regarding the environmental standards governing privately owned wastewater treatment facilities providing municipal wastewater services. It would require the same environmental standards for municipal wastewater treatment facilities owned in whole or in part by private investors as would apply to publicly owned treatment works. Communities and their citizens should not face an additional burden imposed by the Federal Government simply because they are developing innovative means to pay for a clean environment.

This bill would have numerous positive benefits. It would lead to more construction of wastewater treatment facilities. According to a report done by NatWest Washington Analysis, potential private investment in municipal wastewater treatment facilities could reach $2 billion a year. This would double the Federal investment in wastewater facilities.

To the extent that this investment is in new facilities, there will be more treatment facilities and cleaner water. It would help private capital flow into

wastewater systems facing upgrades and expansions and new requirements. Private and public/private facilities would have to comply with all of the same requirements that publicly owned facilities have to comply with. Industrial facilities discharging into sewers and treatment plants, whether public or private, would continue to be subject to the pretreatment requirements of the Clean Water Act.

It will also lead to additional jobs. According to a study prepared by Apogee Research, every $1 billion spent on wastewater facility investment generates 34,200 to 57,400 jobs.

It also would mean more capital investment to protect and prolong the extensive Federal investment in existing structures.

Privatization also gives local governments which must comply with the Clean Water Act an additional fiscal tool for construction and maintenance of these facilities. It provides equitable treatment of communities that choose to pursue alternative financing on their own rather then depending on limited Federal funds.

Mr. President, this bill will help the private sector provide the infrastructure financing which is essential for economic growth. It will give local governments with limited financial resources another tool to address their budgetary problems. It will generate jobs. And it will improve the quality of the nation's waters.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1681

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 "Municipal Wastewater Treatment Facility Private Investment Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) municipal wastewater treatment construction needs exceed $100,000,000,000;

(2) Federal assistance for State revolving loan programs will provide funding for only a portion of the municipal wastewater treatment facilities;

(3) increasing the amount of funds invested by the private sector in municipal wastewater treatment facilities would—

(A) help address the funding shortfall referred to in paragraph (2);

(B) stimulate economic growth;

(C) lead to an increase in the construction of wastewater treatment facilities and jobs;

(D) result in cleaner environment; and

(E) provide a greater degree of fiscal flexibility for local governments in meeting Federal mandates; and

(4) the most effective way to encourage an increase in the level of involvement of the private sector in the provision of municipal wastewater services is to provide for the uniform regulation of municipal wastewater treatment plants without regard to whether the wastewater treatment plants are publicly or privately owned or under the control of a public and private partnership.

SEC. 3 PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(21) As used in titles I, III, and IV, and this title, the term 'publicly owned treatment works' means a device or system used in the collection, storage, treatment, recycling, or reclamation of municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) with respect to which all part of the device or system—

"(A) was constructed and is owned or operated by a State or municipality;

"(B) was constructed, owned, or operated by a State or municipality and the ownership has been transferred (in whole or in part) to a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances, if the facility is used in a manner prescribed in the matter preceding subparagraph (A) by the private entity; or

"(C) is owned or operated by a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances within a service area that would otherwise be served by the State or municipality, if the facility is used in a manner prescribed in the matter preceding subparagraph (A).

"(22) The term 'regulated utility' means a person, firm, or corporation with respect to which—

"(A) a State water pollution control agency grants a license to own or operate (or both) a wastewater treatment facility; and

"(B) a State regulates the fees or other charges of the utility.".

NATIONAL ASSOCIATION OF WATER COMPANIES,
Washington, DC, November 1, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing in support of a bill you will soon introduce to promote private sector participation in the provision of wastewater service. This bill would amend the Clean Water Act to provide a definition of "Publicly Owned Treatment Works" (POTW) based on purpose rather than ownership.

According to EPA's 1992 needs survey, $137.1 billion is needed to meet eligible projects under the Clean Water Act through 2012. With funding for the State Revolving Fund decreasing, alternative funding sources will be required to meet these needs.

This is where the private sector can help. Adoption of your legislation will provide a level regulatory playing field for POTWs whether publicly owned, privately owned, or under the control of a public-private partnership. Regulatory certainty of this kind provides an incentive to the private sector to bring its financial resources and managerial expertise to bear on this important environmental function.

The National Association of Water Companies is the trade association representing the nation's investor-owned water utilities. Its 360 members in 41 states provide safe, reliable drinking water to over 22 million Americans every day. Ten of our companies also provide wastewater service to over 350,000 persons nationwide, a number which is growing.

On behalf of our membership, I am pleased to endorse your legislation. I look forward to working with you on this important measure.

Sincerely,

JAMES B. GROFF,
Executive Director.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, DC, November 18, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC

DEAR SENATOR LAUTENBERG: The Associated General Contractors of America supports your legislation to clarify the definition of "publicly owned treatment works" (POTW) in the Clean Water Act. This initiative will make it more attractive to privatize POTWs by removing the possibility that different regulations will be applied to POTWs depending on their ownership. EPA's 1992 needs survey projects that $137.1 billion will be required over the next 20 years for POTWs to meet Clean Water Act standards. Since annual appropriations to the State Revolving Fund program are not likely to be sufficient to meet these needs, it is important that private financing become available to fill the funding gap.

AGC believes your legislation will assist in bringing private funds to the clean water effort and therefore supports it enthusiastically.

Sincerely,

STEPHEN E. SANDHERR,
Executive Director, Congressional Relations.

FIREMEN & OILERS,
Atlanta, GA, November 18, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: I have recently learned that you are considering introducing an amendment to the clean Water Act that would clarify the definition of Publicly Owned Treatment Works (POTW). International Brotherhood of Firemen & Oilers supports your efforts to amend the Clean Water Act that would remove a major impediment to attracting private capital to fund the nation's wastewater infrastructure needs.

EPA has estimated that within the next 10 years a back log of up to 90 billion in wastewater projects will exist. In New Jersey alone approximately $4.4 billion will need to be invested in wastewater infrastructure. In 1993, over one billion in needed infrastructure improvements will go unfunded in New Jersey. This investment represents only the correction of current deficiencies and provisions of any new facilities to accommodate growth. Yet while New Jersey requires more money for wastewater infrastructure, it is faced with declining federal funding. In 1980 the federal government paid 75 percent of the states wastewater costs. Today about 33% of wastewater funding comes from the federal program.

Clearly, New Jersey and the country's wastewater infrastructure is in need of capital well beyond the resources available from the federal or state governments. Your

amendment clarifying the definition of POTWs will attract a greater amount of private capital to fund to a larger portion of the country's wastewater infrastructure needs. Such investment translates into a healthier and more competitive economy and stimulates increased tax revenues.

I urge your favorable consideration to move forward with this amendment.

Sincerely,

MICHAEL A. MATZ,
International Secretary-Treasurer.

AMERICAN WATER WORKS CO., INC.,
Voorhees, NJ, October 28, 1993.

Hon. FRANK P. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: According to the USEPA projections, by the year 2000 the potential exists for a $90 billion backlog in wastewater infrastructure needs in the United States. To address this financial crisis, private sector capital must be attracted to wastewater infrastructure. The opportunity now exists to create a new United States industry—the investor-owned wastewater utility business. This new industry will provide the needed capital for wastewater infrastructure. This new industry will also be a source of millions of dollars of tax revenues for federal, state and local governments.

I believe it is fair to say that the USEPA supports the concept of private capital investment in wastewater infrastructure.

Recently EPA Administrator Carol Browner wrote to me expressing EPA's position. I quote the following from her letter:

"We find that communities throughout the nation are taking the lead in reinventing government and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand."

In order to open wastewater infrastructure to private capital investment, some legislative impediments need to be removed. One important change that is needed is to clarify the definition of a Publicly-Owned Treatment Works ("POTW") which is now based on the source of capital that financed the system rather than the public purpose which the wastewater facility is serving. Your proposed amendment to the Clean Water Act will clarify the definition and will remove a major impediment for attracting private capital to wastewater infrastructure.

I encourage you to go forward and introduce the amendment to the Clean Water Act. If we at American Water Works Company can be of any assistance in this effort, we will be most happy to help.

Sincerely,

EDWARD W. LIMBACH.

AMERICAN ANGLIAN,
ENVIRONMENTAL TECHNOLOGIES,
Voohees, NJ, November 1, 1993.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The New Jersey based American Water Works Company and Anglian Water Plc of the United Kingdom have formed a joint venture company, AmericanAnglian Environmental Technologies, to pursue privatization opportunities in wastewater in the United States. The new joint venture company is headquartered in New Jersey.

We have been advised that you are considering an amendment to the Clean Water Act that will remove a major impediment to privatization of wastewater facilities by more clearly defining a publicly-owned treatment works. We encourage you to introduce this amendment which EPA supports.

If we at AmericanAnglian Environmental Technologies can be of any assistance in this effort, we will be most happy to help.

Very truly yours,

J. THOMAS GRIFFITHS.●

By Mr. MOYNIHAN:

S. 1682. A bill to unify the formulation and execution of U.S. diplomacy; to the Select Committee on Intelligence.

UNIFICATION OF U.S. DIPLOMACY ACT OF 1993

● Mr. MOYNIHAN. Mr. President, on the first day of the 102d Congress I introduced the End of the Cold War Act of 1991, S. 236. This legislation included a number of titles, each intended to address a situation or problem which had developed during the course of the cold war. And which, blessedly, we could now correct. As I said in introducing the bill, I believe that:

> The time has come to ask, with the cold war over, can we purge the vestiges of this struggle from our laws, our bureaucracy and, most importantly, from our way of thinking? Can we muster the will to redefine ourselves?

Among other things, the bill dealt with these important topics: First, cleaning up environmental messes justified during the cold war by alleged military necessity; second, the need to purge the infamous ideological lookout lists which barred entry into the United States of tens of thousands of persons posing no threat to the national security for the sole reason of their opinions; third, the desirability of informing the American people of the amount spent annually on intelligence activities as required by the Constitution; and fourth, the necessity of prohibiting executive branch agencies from carrying out clandestine operations with funds solicited from foreign powers.

I am pleased to note that the Congress has since acted on all of these problems. It has called for the publication of information about intelligence spending on several occasions. It adopted my amendment requiring the Department of State to purge the infamous McCarran-Walter lookout lists, while retaining information related to legitimate law enforcement purposes. The Congress has taken steps to address the environmental degradation of the cold war by adopting the Federal Facilities Compliance Act of 1992. And it adopted legislation prohibiting soliciting funds to carry out activities prohibited by Congress, although my amendment to go further and make such activity a criminal offense—which was vetoed by President Bush during the 101st Congress—has not been adopted.

There was, however, another initiative in the End of the Cold War Act of 1991. Title III of S. 236 was titled "Unification of United States Diplomacy" and would have transferred the functions assigned to the Director of Central Intelligence to the Secretary of State. This would have occurred after a 2 year period of consultation and planning to arrange for intelligence activities to be carried out under the direction of the Secretary in the most efficient manner. Needless to say, although this legislation attracted a certain degree of attention—some positive, some negative—it was not adopted. With the advent of the 103d Congress—and a new administration—it seemed reasonable to withhold reintroduction of the bill for a time. A year has now passed since the election and I think—if for no other reason than contributing to the debate over the future of the foreign policy institutions of this country—that the time has come to reintroduce this provision. So I am today introducing the Unification of United States Diplomacy Act of 1993.

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. 1682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE

SEC. 101. This Act may be cited as the "Unification of United States Diplomacy Act of 1993".

TITLE II. UNIFICATION OF UNITED STATES DIPLOMACY

SEC. 201. Purpose. It is the purpose of this title to unify the formulation and execution of United States foreign policy by providing overall authority over intelligence activities to the Secretary of State.

SEC. 202. Findings. The Congress finds that—

(1) the creation of the Central Intelligence Agency as a separate entity during the Cold War undermined the role of the Department of State as the primary agency of the United States Government in formulating and conducting foreign policy and providing information to the President concerning the state of world affairs; and

(2) it is desirable for the Secretary of State to serve as the official primarily responsible for coordinating and managing the gathering of intelligence.

SEC. 203. Transfer of Intelligence Functions.—

(a) Not later than two years after the effective date of this Act there shall be transferred to and vested in the Secretary of State all of the functions, powers and duties of the Director of Central Intelligence, the Director of the Central Intelligence Agency and any officer or component of the Central Intelligence Agency.

(b) Not later than one year after the effective date of this Act, the Secretary of State, after consultation with the Director of the Central Intelligence Agency and other relevant officials, shall transmit to the Congress a plan for (1) effecting the transfer of functions under this section and (2) administering those functions. In designing the plan the Secretary shall also consult with

the Congress, other relevant federal agencies and the President's Foreign Intelligence Advisory Board.

(c) The Secretary of State is authorized to conduct the functions transferred by subsection (a).

(d) The transfer of a function or office from an officer or agency to the Secretary of State includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1683. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York-New Jersey Highlands Region, and for other purposes; to the Committee on Energy and Natural Resources.

THE STERLING FOREST AND NEW JERSEY WATERSHED PRESERVATION ACT

● Mr. BRADLEY. Mr. President, I introduce critical legislation to allow the preservation of the Sterling Forest along the New Jersey-New York border. The area affected by this bill represents some of the most important New Jersey watershed lands still undeveloped and in private hands. I am very pleased that Senator LAUTENBERG has joined me as a cosponsor of this bill. Also, in the House of Representatives, Congressman TORRICELLI has been thoroughly involved and is committed to action at the earliest date.

Sterling Forest represents the largest unbroken, undeveloped tract of forest land along the New York-New Jersey border. This 30 square mile parcel represents a complete range of wildlife habitat, hills, and wetlands. It's crossed in the north by the Appalachian Trail and is accessible potentially by the 1 of every 12 Americans that live within a 2 hour drive of its boundaries. This area is also home to a large number of threatened and endangered species.

Most important for New Jersey, though, are the billions of gallons of fresh, clean drinking water that flow from its boundaries. The Monksville/Wanaque Reservoirs, which draw from the Sterling Forest watershed, serve one in four New Jerseyans. To threaten this watershed is to threaten the livelihood and well-being of an extraordinary number of my constituents.

Of great concern to me and my constituents are development plans for this region. The proposal offered by the Sterling Forest owners calls for over 14,000 homes and 8 million square feet of commercial space to be built by 2020. Even if this development were concentrated in the least environmentally critical and most accessible tracts, this construction will irrevocably alter and degrade this land. You can't move 100,000 people into a pristine 30-square-mile parcel and seriously predict a limited impact on the environment.

This bill is a necessary step if we are to protect this habitat and watershed. It allows an appropriation of up to $35 million for land acquisition. Furthermore, it designates the Palisades Interstate Park Commission [PIPC], a Federal commission created in 1937, to manage this land. One of the issues that has to be addressed in any expansion to park land is management. We all know how taxed is the National Park Service. The presence of the PIPC eliminates any concerns over competence and capability. Right now, the PIPC manage 23 parks which spread over 82,000 acres and host in excess of 8,000,000 visitors annually. The PIPC has the interest and the track record necessary to give us all a level of comfort that these Sterling Forest tracts, once acquired, will be well managed and protected.

Before closing, I would like to acknowledge that there is a broader context that must be considered. The Sterling Forest is part of a large swath of green, known as the Highlands, that extends from northern New Jersey through New York to Connecticut. In New Jersey and in New York, a large effort is underway to provide a vision for the future of the Highlands. If Sterling Forest is protected, one piece of this puzzle is complete. But, there will be more to do and I expect to remain fully involved.

I urge my colleagues to consider this bill and pass it quickly. There is merit and there is need.

I ask unanimous consent that the text of bill be printed in the RECORD.

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

S. 1683

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 "Sterling Forest and New Jersey Watershed Protection Act of 1993".

SEC. 2. LAND ACQUISITION.

(a) AUTHORIZATION.—The Palisades Park Commission (referred to in this Act as the "Commission") is authorized to acquire from the Sterling Forest Corporation an open space tract of land comprising the Sterling Forest area of the New York/New Jersey Highlands Region.

(b) MANAGEMENT.—The Commission shall manage the land acquired pursuant to subsection (a) to enhance protection of watershed, outdoor recreational, wildlife habitat, and Appalachian Trail values in the Sterling Forest area of the New York/New Jersey Highlands Region.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior $35,000,000 for the purposes of acquiring the land described in section 2.

(b) TRANSFER OF FUNDS.—Of the sums made available pursuant to subsection (a), the Secretary of the Interior shall transfer to the Commission such sums as are necessary to carry out this Act.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join Senator BILL BRADLEY in introducing legislation that would authorize the Federal Government to provide up to $35 million to purchase land in the Sterling Forest area of the New York/New Jersey region. These funds are critical to preserving the largest pristine private land area in the most densely populated metropolitan region of the United States.

The Sterling Forest is located in the Highlands region on the New Jersey and New York border, within a 2 hour drive for more than 20 million people. Two thousand acres on the New Jersey side were acquired by the State by eminent domain. However, the tract of land on the New York side, some 17,500 acres, is owned by a private corporation and is under constant threat of development.

The current owners of the land have mapped out an ambitious plan that, if implemented, would be the largest real estate venture in the United States. The plan calls for 14,200 houses and over 8 million square feet of commercial and light industrial space. The development would include schools, shopping malls, sewage plants, and residential areas.

The proposed development would also harm the environment: five million gallons of treated sewage effluent would be discharged daily into streams, and road salts, petroleum products, pesticides, and other contaminants would result in substantial non-point source pollution.

As damaging as that would be, I am most concerned about the potential effects on New Jersey's water supply. Sterling Forest is an important watershed for New Jerseyans. The forest provides 18 percent of the clean water flow into the Wanaque/Monksville reservoir system. The Wanaque system delivers drinking water to over 80 cities and towns in Northern New Jersey, which represent 25 percent of the State's population.

Mr. President, we ought not allow such desecration. Sterling Forest is worth preserving. It is nothing short of beautiful. Its rugged topography is good for wildlife (many threatened or endangered species), for hikers and naturalists and for the watershed—not for development.

That's why we need to do all we can to protect this resource. This bill authorizes up to $35 million to be provided to the Palisades Interstate Park Commission for the purchase of Sterling Forest. The Commission has played a critical role in negotiating among private and public parties to strike a compromise with the current owners of Sterling Forest. A compromise is possible. But we need the backing of these Federal funds to make it happen.

Mr. President, we need this bill to preserve not just an environmentally pristine tract of land, but also to ensure that one-quarter of New Jersey's residents' water supply is protect.●

By Mr. MURKOWSKI:

S. 1684. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer a deduction for equipment used for environmental purposes.

ENVIRONMENTAL PROTECTION ENCOURAGEMENT ACT OF 1993

Mr. MURKOWSKI. Mr. President, on June 30, 1993, the Alaska Pulp Corp. announced that it would indefinitely suspend its pulp mill operation in Sita, AK. That decision meant that some 400 Alaskans, employees of the mill in Sitka, would lose their jobs. To put that number into perspective, those 400 jobs represent a full 10 percent of the labor force in the Borough of Sitka. And that does not begin to measure the effects on the families of the workers and the ripple effects on the local economy of the loss of the jobs at the mill.

Mr. President, there are a number of reasons why the Alaska Pulp Corp. could no longer successfully operate in Sitka, but if there is one thread which ties all of those reasons together, it is the impact on the mill of the Federal Government. Whether the particular impact is the Forest Service's mishandling of the mill's 50-year timber contract or the ever-mounting costs to the mill of complying with Federal environmental regulations, the fact is that those 400 jobs would still be there were it not for the actions of the Federal Government.

That is why I am introducing today the Environmental Protection Encouragement Act of 1993. Mr. President, this country has the world's most stringent economic protections and while we can all take different sides on the issue of whether those regulations are too strict or not strict enough, no one can disagree with the simple premise that these regulations cost American jobs. The regulations cost American jobs because they put American companies, whether they are auto factories in Michigan, aircraft manufacturers in Washington, or pulp mills in Alaska, at a significant competitive disadvantage to overseas companies which simply do not have to live up to the same sort of standards which we force upon ourselves here in the United States.

My legislation does nothing to either weaken or strengthen American environmental law. What it does is take a small step towards giving American companies some parity with their overseas competitors. It does that by allowing American companies the ability to write off, on an accelerated basis, the costs of any equipment bought in order to comply with environmental regulations. Under current law, companies must wait 7 years to deduct the expense of equipment bought to comply with environmental regulations; my legislation would allow them to write off that expense in 1 year.

Mr. President, this is legislation which should be welcome by all parties. Working people and businesses should support this bill because it will allow American companies to stay competitive and, by being so, to stay in business. Environmentalists should support this bill because it will quicken the pace of the installation of environment protection equipment throughout the country. In short, Mr. President, this is a bill which seeks to address the concerns of all parties to the issue of the costs of complying with environmental regulations.

Mr. President, the pulp mill in Sitka remains closed today, and a small community in Alaska struggles with the impact of the loss of 10 percent of its jobs. That same mill has spent millions and millions of dollars in the last several years on everything from water treatment plants to emission monitoring systems. It may be that the mill would be closed even absent those costs, but I believe that we in Congress ought to be in the business of making life a little bit easier on the people out there beyond the beltway who are trying to make an honest living. That is what this legislation is designed to do.

I ask my colleagues for their support.

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. 1684

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 "Environmental Protection Encouragement Act of 1993".

SEC. 2. ELECTION TO EXPENSE CERTAIN ENVIRONMENTAL PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 179A the following new section:

"SEC. 179. ELECTION TO EXPENSE CERTAIN ENVIRONMENTAL IMPROVEMENT PROPERTY.

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the cost of any environmental improvement property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the environmental improvement property is placed in service.

"(b) ENVIRONMENTAL IMPROVEMENT PROPERTY.—For purposes of this subsection—

"(1) IN GENERAL.—The term 'environmental improvement property' means tangible property which is acquired by purchase for use in the active conduct of a trade or business and which is—

"(A) of a character subject to the allowance for depreciation provided in section 167,

"(B) used for one or more of the following purposes—

"(i) source reduction,

"(ii) solid waste minimization,

"(iii) waste conversion or recycling,

"(iv) reduction of environmental hazards,

"(v) compliance with environmental permits, rules, and similar requirements,

"(vi) prevention, containment, or control of unplanned releases, or

"(vii) the manufacture, distribution, and sale of alternate fuels and blending stocks or fuel additives for reformulated fuels, and

"(C) located and used exclusively in the United States during the taxable year.

If only a portion of property described in subparagraphs (A) and (C) is described in subparagraph (B), such portion shall be treated as environmental improvement property. For purposes of this paragraph, the term 'United States' has the meaning given such term by paragraph (1) of section 638 (relating to continental shelf areas).

"(2) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SOURCE REDUCTION.—The term 'source reduction' means reduction of the amount of regulated substances or other pollutants from fixed or mobile sources released into the environment if such reduction reduces hazards to public health or environment.

"(B) SOLID WASTE MINIMIZATION.—The term 'solid waste minimization' means the reduction in the generation of, or the recovery of commercially usable products from, residual materials which are classified as, or which if disposed would be classified as, solid wastes (within the meaning of the Resource Conservation and Recovery Act).

"(C) WASTE CONVERSION OR RECYCLING.—The term 'waste conversion or recycling' means the processing or conversion of liquid, solid, or gaseous wastes into fuel, energy, or other commercially usable products, and the production of such products if production occurs at the same facility as the conversion.

"(D) ABATEMENT OF ENVIRONMENTAL HAZARDS.—The term 'abatement of environmental hazards' includes the abatement, reduction, monitoring, or stabilization of potential human exposure to toxic chemicals, hazardous or extremely hazardous substances, or harmful radiation.

"(E) UNPLANNED RELEASES.—The term 'unplanned releases' means any release of regulated substances (except federally permitted releases), including indoor releases.

"(F) REGULATED SUBSTANCE.—The term 'regulated substance' includes any substance the release or emission of which is prohibited, limited, or regulated by Federal or State law or by Federal regulations (as determined without regard to whether a particular release would have been prohibited or limited).

"(G) RELEASE.—The term 'release' means any spilling, leaking, pouring, discharging, escaping, dumping, or disposing into the environment, including the abandonment or discarding of barrels or other closed receptacles.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE.—The term 'purchase' has the meaning given such term by section 179(d)(2).

"(2) COST.—The cost of property shall not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

"(3) COORDINATION WITH OTHER PROVISIONS.—This section shall not apply with respect to any property with respect to which an election under section 169 or 179 applies."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding after the item relating to section 179A the following new item:

"Sec. 179B. Election to expense certain environmental improvement property."

(c) EFFECTIVE DATE.—The amendments made by this section applies to property placed in service in taxable years beginning after December 31, 1993.

By Mr. MURKOWSKI:

S. 1686. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Committee on Indian Affairs.

THE ANCSA LAND TRANSFER EQUITY ACT OF 1993

Mr. MURKOWSKI. Mr. President, I rise today to introduce the ANCSA Land Transfer Equity Act of 1993. This legislation will correct a long standing injustice for the Alaska Native community.

Over 20 years ago, the Alaska Native Claims Settlement Act passed Congress and was signed into law by President Nixon. ANCSA, as the law is commonly referred to, granted Alaska's Natives 44 million acres (1/9 of Alaska) of land and approximately $1 billion in monetary compensation for the loss of title to their ancestral lands.

Enactment of ANCSA was a monumental event in Alaska. The land grants and compensation contained in ANCSA are unprecedented. ANCSA created business corporations based on existing Alaska Native communities instead of the old-style reservation system. The corporations created under ANCSA became responsible for managing and investing their assets to the benefit of their all-Native shareholders. ANCSA established a system whereby Alaska Natives could become self sufficient and thereby determine their own destinies.

Many in Congress believed ANCSA would not succeed. I am always happy to remind my colleagues in Congress that ANCSA is a successful law that provides unlimited opportunity for Alaska's Native community.

NEED FOR LEGISLATION

While ANCSA is a unprecedented law which is working extremely well, occasionally we find the need to amend the law.

Mr. President, the legislation I am introducing today will correct a longstanding injustice that has inhibited the ability of many of the Native corporations created under ANCSA to realize the full value of their lands as was intended by Congress.

Native corporations in Alaska have received title to approximately 34 million acres of their 44 million acre settlement.

Unfortunately, during recent years it has become apparent that the federal government transferred parcels of land to Native corporations that are contaminated with hazardous and toxic material.

Mr. President, clearly this was not the intent of Congress when ANCSA was enacted. The federal government entered into a contract with Alaska Natives when ANCSA was enacted and the federal government has acted in bad faith by transferring land to Native corporations with hazardous waste on it.

The purpose of ANCSA was to provide Alaska Natives with land and resources that would enable them to become self sufficient. The burden of hazardous waste liability seriously undermines this purpose and places a tremendous financial burden on Alaska's Natives.

IMPACT ON NATIVE LANDS

Native corporations in Alaska are just starting to discover the extent of hazardous waste sites on lands transferred to them by the federal government. The Shee Atika Native Corporation in Sitka, Alaska received the old Fort Ray site on the Alice and Charcoal Islands. There are 15 old transformers containing PCB-laden oil on the site and many of the buildings on this site are unusable due to asbestos contamination.

Twenty two sites contaminated with hazardous waste are already listed on a preliminary Bureau of Land Management report. Old lighthouses, old Army and Navy sites, old mining sites, old Bureau of Indian Affairs schools, old fish canneries. All of these sites were contaminated before the land was transferred from the federal government to Alaska Native corporations.

LEGISLATION

Mr. President, my legislation will address this situation in a simple and equitable manner.

An affected Native corporation will be required to notify the Secretary of the Interior of contaminated sites. Within one year of notification, the Secretary is then required to reach a settlement with the Native corporation under which the federal government either removes the hazardous substances or replaces the land with other contaminant-free lands of equal value. If the Native corporation contributed or generated hazardous waste, they would be responsible for their actions.

The purpose of ANCSA was to come to fair and just settlement of all aboriginal land claims by native groups of Alaska.

Transferring contaminated lands is not a fair settlement.

I urge my colleagues to support my legislation so Alaska's Natives can realize their full potential under the Alaska Native Claims Settlement Act.

By Mr. MURKOWSKI (for himself, Mr. GLENN, Mr. SIMPSON, Mr. HOLLINGS, Mr. AKAKA, Mr. D'AMATO, Mr. KOHL, Mr. HEFLIN, Mr. INOUYE, Ms. MIKULSKI, Mr. DURENBERGER, Mr. METZENBAUM, Mr. HATFIELD, Mr. GRASSLEY, Mr. RIED, Mr. BENNETT, Mr. PELL, Mr. PRYOR, Mr. LEVIN, Mr. DOMENICI, Mr. BROWN, Mr. WARNER, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. THURMOND, Mr. CHAFEE, Mr. PRESSLER, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. DOLE, Mr. SARBANES, and Mr. STEVENS):

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week;" to the Committee on the Judiciary.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. MURKOWSKI. Mr. President, I rise today to introduce, along with Senator JOHN GLENN, Senator STEVENS and 30 of our colleagues, legislation to proclaim the week of November 21 to 27, 1993 and the week of November 20 to 26, 1994 as National Family Caregivers Week.

The purpose of this week is to recognize those who sacrifice their time and energy to the care of elderly parents, relatives, friends and neighbors who need day to day assistance.

The number of Americans age 65 or older is growing dramatically; and the number of frail elderly age 85 and over is growing, too. Over 5 million elderly persons have disabilities that require daily care.

Eighty percent of these elderly receive care from family members—often wives, daughters, and daughters-in-law who sacrifice employment opportunities to provide care.

Their contributions help maintain strong family ties and provide an environment of caring and nurturing.

Not every person who requires care at home is elderly. I ask unanimous consent to insert in the RECORD at this point an article describing the challenges that faced a young couple, Suzanne and Steven Mintz, when Steven was diagnosed with multiple sclerosis.

These weeks, which my legislation sets aside, provides caregivers with needed recognition.

Similar legislation has been introduced in the House by the gentlewoman from Maine, Representative OLYMPIA SNOWE.

I urge my colleagues to cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the joint resolution and additional material be printed in the RECORD.

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

S.J. RES. 153

To designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week".

Whereas the number of Americans who are age 65 or older is growing dramatically, with an unprecedented increase in the number of frail elderly age 85 or older;

Whereas approximately 5,200,000 older persons have disabilities that leave them in

need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide help to older persons with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities, and therefore need information about available community resources for respite care and other support services;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing older persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994 are each designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.

IN SICKNESS AND IN HEALTH

(By Suzanne Mintz)

At first, when Steven felt the tingles all over his body, we didn't know what to make of them. He tried shaking his arms and legs, the way you do when your limbs fall asleep. But that didn't work. So we called our doctor, who sent Steven to George Washington University Hospital for tests.

That's where I found out. On a crisp sunny day in October, the physician in charge came over to me as I got off the elevator. "I was hoping I would see you," he said, guiding me to the waiting area, an uninviting space with chairs lined up in rows facing each other.

"Your husband has multiple sclerosis," he continued without emotion. "It's a debilitating and incurable neurological disease. I'm sorry." The memory of a neighbor sitting on her porch in a wheelchair flashed through my mind. I was 28, Steven was 31.

Not long after he was diagnosed, I heard that people with multiple sclerosis (MS) have a high divorce rate. Nineteen years later, I can understand why. The vagaries of the disease, its on-again-off-again nature and the fact that it attacks just when a person spreads his adult wings, all conspire to eat away at the tender core of a marriage.

MS has no specific prognosis, no timetable, no cure. If it's mild, symptoms may recede or go away entirely. If not, the damage accumulates.

When Steven came home from the hospital, nothing was different about him—yet. He'd stub a toe on a step now and then, but that was all. Why make anyone worry, we thought, deciding not to tell our parents or friends. But I desperately needed to feel I wasn't on my own in dealing with the situation. And so we took Steven's sister and brother-in-law into our confidence. It helped a little.

Outwardly, the pattern of our lives didn't change. Our daughter Darryn entered kindergarten. I completed my master's degree and got a job—my first since she was born. Steven worked as a government economist. We bought a house in Maryland, a ranch house, just in case Steven wouldn't be able to climb stairs one day.

Everything seemed normal, but nothing was. Our sensitivities were so heightened that the simplest question—"How was your day?"—took on a new significance. The response, "It was tiring," conjured up an invalid's lifestyle.

I was apprehensive, unsure of what might happen from day to day, unsure of every conversation, unsure of being too solicitious or not showing enough concern. Steven's health became a major topic of conversation. It consumed our attention and stifled me, but I couldn't admit it. I couldn't say. "Let's not talk about how you feel all of the time. Let's try and live as normal a life as possible."

Of course, we might have had problems without MS. This was the "70s"—Being unable to communicate was common among couples. For us, it was heightened by the fact that we dealt differently with our crisis. Steven turned inward for strength. I needed to reach out for support. It never occurred to us that we would end up waging an emotional war against each other, a war that would lead to a year-long separation, an 18-month truce and a two-year battle before it ended in reconciliation.

Like most couples, we'd married "for better or for worse, in sickness and in health." Nobody who marries at 21 believes that means anything more serious than a common cold. No young couple expects tragedy to happen.

I think the reason we got back together is that, underneath it all, we really are good for each other—plus, when you divorce you give up some of your memories, some of your connections. Neither one of us was willing to do that. Darryn said it best: "I knew you guys loved each other."

So after years of heartache, we were together, but the hardest part was still ahead.

Steven has the slow, progressive variety of MS—it's like a leaky faucet that attracts attention only after water collects in a basin. By 1979, Steven's basin was filling up. His gait was uneven, his balance a bit off. We couldn't hide it anymore. We told our parents and friends. Two years later, he started to use a cane. Toward the end of '82, he got a pair of crutches, the kind with arm supports for more stability.

Then, early in '85, about 10 years after he was diagnosed, Steven bought a motorized scooter to get around at work, in shopping malls and other places where lots of walking was required. The scooter was a relief. I no longer had to watch him struggle to walk a block, and we got back some freedom. But the scooter was also a reminder that MS was here to stay.

I had accepted the fact that Steven might end up in a wheelchair in his mid-50s. When he needed one 13 years ahead of my schedule, sadness—mixed with a lot of hidden anger—overtook me.

As things got worse, I channeled my anger into a drive toward success. I didn't set out to "make it"—to be the main breadwinner, to gain control—but that's what I was doing. If I concentrated on my career, I told myself, I wouldn't be able to focus on Steven's growing disability.

But pushing myself didn't make the pain go away. It turned anger into anguish and then into a depression so deep I needed psychiatric help to get out of it. For the first time, I let myself cry.

There's a delicate balance between giving in, hanging on and graciously accepting the inevitable. Steven and I had to learn to deal with these various perspectives. We had to recognize that our different emotional needs couldn't be ignored, not his, not mine.

Steven's a quiet fighter. He stretches his ability to the limit. I can't bear to watch him struggle each time his condition worsens. Years ago I would have nagged. Now, I let him deal with it his way—until either his safety is at risk or my stress level is so high that I have to call timeout. Then he knows it's time to do something, to get another aid, perhaps a new wheelchair, whatever will help.

Our lives are good for the time being. We share the things we've always liked: movies, mysteries, museums, good food, the ballet. Steven still works full time. Three days a week he drives a car with hand controls to the Department of Energy in Washington, DC, and two days he telecommutes by computer from our home. (Thank heaven for modern technology.) Darryn, 24, an honor student in college, has entered a management-training program. I'm the partner in charge of marketing for one of the top-100 interior-design firms in the country. And I have a new goal in life: to help other caregivers.

A few years ago, my friend Cindy Fowler and I went to the beach for the weekend, just to get away. Her mother, who lives with her, has Parkinson's disease. So Cindy and I were dealing with a lot of the same concerns. As we talked, we realized that, despite the differences in our lives, we shared a need for practical information and for emotional support. And we weren't the only ones.

Millions of people care for disabled husbands, wives, children, parents, sisters, brothers and companions at home. Most of us are women, our lives are hard, and we can get depressed. But hardly anyone notices. Friends are sure to ask, "How's John?" "How's Mary?" But they don't ask about us. We're invisible.

Cindy and I started a nonprofit organization, the National Family Caregivers Association, to let other caregivers know they're not alone and to help them make their lives better.

We don't suggest that giving care is as hard as needing it. But the caregiver gives up dreams, too. Becoming a caregiver means reevaluating priorities, making compromises, spending thousands of dollars on equipment your insurance doesn't cover. Caregiving is learning about drugs and emergency-alert systems. It's hard work and pain—and joy when your loved one has a good day.

Caregiving can go on for a few years or a lifetime. For me, it began with waiting and has grown into doing all the chores, helping Steven dress, going out less because he's tired more often . . . and wondering what comes next.

I don't look forward to the future. Some visions of old age fill me with dread, but they may not come to pass. Steven's MS may not get worse. A cure may be discovered. We may be able to live on together in the home we love. These things are all possible, but I try not to spend too much time thinking about them. I know that there's too much to do right now.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from New York

[Mr. MOYNIHAN] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 563

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Utah [Mr. BENNETT] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 563, a bill to require CBO analysis of each bill or joint resolution reported in the Senate or House of Representatives to determine the impact of any Federal mandates in the bill or joint resolution.

S. 634

At the request of Mr. GLENN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 634, a bill to establish a program to empower parents with the knowledge and opportunities they need to help their children enter school ready to learn, and for other purposes.

S. 680

At the request of Mr. GORTON, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 680, a bill to provide for toy safety, and for other purposes.

S. 717

At the request of Mr. PRYOR, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes.

S. 773

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 773, a bill to require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes.

S. 881

At the request of Mr. DODD, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 994

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 994, a bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1408

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1447

At the request of Mr. BRYAN, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. BOREN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1448

At the request of Mr. SASSER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1448, a bill to establish a Police Corps Program and a Law Enforcement Scholarship and Employment Program.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1463

At the request of Ms. MIKULSKI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1463, a bill to amend the Elementary and Secondary Education Act of 1965 to address gender equity in mathematics and science education and to assist schools and educational institutions in the elimination of sexual harassment and abuse.

S. 1506

At the request of Mrs. BOXER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1506, a bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

S. 1607

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 1607, a bill to control and prevent crime.

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 1607, supra.

S. 1664

At the request of Mr. BRYAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1664, a bill to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of anti-money laundering laws, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. PELL, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 160

At the request of Mr. DURENBERGER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 160, a resolution expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes.

SENATE RESOLUTION 167

At the request of Mr. PELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 167, a resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of Southern Iraq.

SENATE CONCURRENT RESOLUTION 53—TO COMMEMORATE THE 50TH ANNIVERSARY OF THE HEROIC RESCUE OF DANISH JEWS DURING WORLD WAR II BY THE DANISH PEOPLE

Mr. LIEBERMAN submitted the following concurrent resolution; which

was referred to the Committee on the Judiciary:

S. CON. RES. 53

Whereas in the fall of 1943, the Nazis occupied Denmark and issued orders that the Danes deport all Danish Jews to concentration camps where the Jews would eventually be exterminated;

Whereas the Danish people, as a result of the Nazi mandate, began a mission of mercy on October 1, 1943, smuggling Jews across the Oresund Strait to neutral Sweden via small boats and fishing cutters;

Whereas the Danish rescuers unselfishly risked their own lives, avoiding German patrols during the more than 2-month long rescue operations; and

Whereas approximately 90 percent of the Danish Jews were saved from certain death at the hands of the Nazis by the sheer courage and compassion demonstrated by the Danes: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes and commemorates the bravery and valor of those Danes who participated in the 1943 rescue operations that saved the lives of 7,300 Jews who would otherwise have perished in Nazi concentration camps; and

(2) declares that the world owes a great debt to these Danes who did not turn a blind eye on the dangers that faced Jews under Nazi occupation.

• Mr. LIEBERMAN. Mr. President, I submit today a concurrent resolution commemorating the 50th anniversary of the heroic rescue of Danish Jews during World War II by the Danish people. For more than 2 months beginning in October 1943, 7,300 Jews living in Denmark were smuggled past Nazi patrols and across the stormy waters of the Oresund Strait to Sweden so they could live free of the fear of extermination by the Nazis. The Danish people involved in this rescue did so at great risk to their own safety. Their courage, compassion, and refusal to turn a blind eye to the dangers which faced Jews under Nazi occupation set an example which the world should not forget. As we commemorate this 50th anniversary, we should recommit ourselves to the ideals which these brave men and women risked their lives for. I am proud to introduce this resolution and urge my colleagues to support it.•

SENATE RESOLUTION 168—AUTHORIZING THE PRINTING OF A DOCUMENT RELATIVE TO THE 126TH ANNIVERSARY OF THE APPROPRIATIONS COMMITTEE

Mr. BYRD (for himself and Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Resolved, That there be printed with illustrations as a Senate document a compilation of materials entitled "Committee on Appropriations, United States Senate, 126th Anniversary, 1867–1993", and that there be printed five thousand additional copies of such document for the use of the Committee on Appropriations.

SENATE RESOLUTION 169—ORIGINAL RESOLUTION REPORTED TO ESTABLISH A UNITED STATES-RUSSIA NUCLEAR POLICY REVIEW GROUP

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 169

SECTION 1. CONGRESSIONAL FINDINGS.

The Senate finds that—

(1) Reducing the threat of nuclear proliferation remains one of our Nation's top priorities;

(2) While the nuclear arsenal of the former Soviet Union represented the single greatest threat of nuclear attack to the United States before the breakup of that country, reducing our two arsenals and disposing of the resulting weapons grade uranium and plutonium is one of the principal means by which the threat of nuclear proliferation can be reduced;

(3) While an agreement on the disposal of highly enriched uranium is under discussion by both the United States and the Russian Republic, a number of issues have slowed the finalization of the agreement;

(4) The prompt resolution of these issues is vital to U.S. national interests; and

(5) Although each agency has been working to resolve the issues within its jurisdiction, there exists no centralized, high-level mechanism within the Executive Branch by which these pressing nuclear issues may be quickly and efficient resolved.

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) The President should establish immediately an extraordinary nuclear policy review group, to be chaired by the National Security Advisor and to be composed of high-level officials from relevant agencies, to seek to ensure that all outstanding issues between the United States and Russia relating to nuclear materials, including the highly enriched uranium agreement, are promptly addressed and resolved;

(2) The extraordinary nuclear policy review group should review in particular a range of nuclear policy matters that can and should be resolved by administrative procedures including the purchase agreement on highly enriched uranium and access to U.S. markets for Russian commercial grade uranium. Other programs to be reviewed include greater cooperation in technology transfer, nuclear safety and nuclear nonproliferation agreements; training and other programs to increase the stability of nuclear scientists and technicians of the former Soviet Union; and feasibility of additional efforts to accelerate the pace of dismantling the nuclear arsenal of the former Soviet Union.

(3) The President should provide a report to the appropriate committees of Congress within 90 days of enactment of this Act, detailing the findings of the extraordinary nuclear policy review group and its recommendations for resolving all outstanding issues between the United States and Russia relating to nuclear materials, including the recommendations for expedited administrative resolution of matters relating to the highly enriched uranium agreement and access to U.S. markets for Russian commercial grade uranium.

SEC. 3. APPROPRIATE COMMITTEES OF CONGRESS.

For purposes of this section the "appropriate committees of Congress" shall include the Foreign Relations Committee of the Senate and the Foreign Affairs Committee of the House of Representatives.

AMENDMENTS SUBMITTED

HUD HOUSING LEGISLATION

RIEGLE (AND OTHERS) AMENDMENT NO. 1215

Mr. BAUCUS (for Mr. RIEGLE for himself, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. DOMENICI, and Mr. BINGAMAN) proposed an amendment to the bill (S. 1299) 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; as follows:

On page 80, after line 25, insert the following new paragraph:

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

On page 87, line 4, strike "unsubsidized".

On page 87, line 10, insert "otherwise" after "who are".

On page 87, line 11, strike "such" and insert ", in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1)," after "assistance".

On page 87, line 17, strike "Actions" and insert "With respect to subsidized or formerly subsidized projects, actions".

On page 87, line 17, strike "also".

On page 101, line 2, strike "disposition of, or" and insert "demolition of,".

On page 101, line 3, insert "or conversion in the use of," after "to,".

On page 101, lines 9 through 11, strike "not owned by the Secretary (and for which the Secretary is not mortgagee in possession)" and insert "subject to a mortgage held by the Secretary".

On page 101, line 13, insert ", if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project" before the period.

On page 103, line 16, insert ", unsubsidized," after "subsidized".

On page 105, line 20, insert ", on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory" before the period.

Beginning on page 105, strike line 21 and all that follows through page 106, line 12, and insert the following:

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average

and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

On page 108, line 6, insert "and" after the semicolon.

On page 108, line 8, strike "(j)" and insert "(i)".

On page 108, line 8, strike "; and" and insert ".".

On page 108, strike lines 9 through 15.

On page 113, line 9, before the period insert the following: ", except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property".

On page 114, line 15, strike "and".

On page 114, line 22, strike the period at the end and insert "; and".

On page 114, between lines 22 and 23, insert the following new paragraph:

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT.—For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

On page 114, between lines 22 and 23, insert the following new subsection:

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

On page 114, line 23, strike "(b)" and insert "(c)".

On page 115, line 2, strike "this Act" and insert "the final regulations implementing the amendments made by this section" before the semicolon.

On page 166, beginning on line 21, strike "Such preference" and all that follows through line 24 and insert the following: "Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.".

On page 177, between lines 8 and 9, insert the following new sections:

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—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 the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes 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 may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). 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 release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) 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;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with 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 subsection (a); and

"(B) 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 his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

On page 187, strike line 11 and insert the following:

"Subtitle C—Miscellaneous and Technical Amendments"

On page 187, after line 16, insert the following new sections:

"SEC. 332. CDBG TECHNICAL AMENDMENT.

"Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

"SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—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 the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head 'Annual Contributions for Assisted Housing' in title II of the Departments of Veterans Affairs and Housing and Urban Development,

and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes 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 were the Secretary to undertake such special projects as Federal projects.

"(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

"(A) provide for monitoring of the performance of environmental reviews under this section;

"(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

"(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

"(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

"(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). 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 releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) 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;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with 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 subsection (a); and

"(B) 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.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

At the appropriate place, insert the following new section:

SEC. ___. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

At the appropriate place, insert the following new section:

SEC. ___. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

On page 73, amend the table of contents by inserting after the item relating to section 310 the following:

Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.

Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

On page 73, amend the table of contents by striking the item relating to subtitle C and inserting the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 73, amend the table of contents by inserting after the item relating to section 331 the following:

Sec. 332. CDBG technical amendment.

Sec. 333. Environmental review in connection with special projects.

OMNIBUS CRIME LEGISLATION

BIDEN AMENDMENT NO. 1216

Mr. BIDEN proposed an amendment to the bill (S. 1607) to control and prevent crime; as follows:

On page 122, line 23, strike "Grant" and insert "Subject to subsection (g), grants".

On page 122, after line 25, insert the following:

"(g) HANDGUNS IN SCHOOLS.—

"(1) IN GENERAL.—In any year after the first day of the first fiscal year after the expiration of the next regular session of the State legislature following the date of enactment of this subpart, the Administrator may award to a State that meets the requirement of paragraph (2) additional grant funds, from the funds reserved for the special discretionary fund established under subsection (e), in an amount equal to 25 percent of the amount of the grant that would be made without regard to this subsection.

"(2) STATE LAW.—A State meets the requirement of this paragraph if the law of the State provides that—

"(A) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school, the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes—

"(i) in the case of a person who holds a driver's license issued by the State, revoke the person's driver's license for a period of 5 years, during which period the license may not be reissued except as provided under paragraph (3); and

"(ii) in the case of a person who does not hold a driver's license issued by the State, except as provided under paragraph (3), withhold for a period of 5 years or until the date

on which the person attains the age of 18 years, whichever is longer, the issuance of a driver's license for which application may subsequently be made;

"(B) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school during a period of revocation or withholding of the issuance of a person's driver's license under subparagraph (A), the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes, extend the period of revocation or withholding for an additional 10 years, during which period the license may not be reissued except as provided in paragraph (3); and

"(C) subparagraphs (A) and (B) do not apply to the possession of a handgun—

"(i) on private property that is not part of the premises of a school;

"(ii) if—

"(I) the person possessing the handgun is licensed to possess the handgun by the State in which the elementary school or secondary school is located or by a political subdivision of the State; and

"(II) the State or political subdivision of the State requires that, as a condition of the issuance of a driver's license, an appropriate law enforcement authority of the State or political subdivision of the State verify that the person is qualified under applicable law to hold the firearm license;

"(iii) that is—

"(I) not loaded; and

"(II) in a locked container or in a locked firearm rack that is on a motor vehicle;

"(iv) by a person for use in a program approved by the appropriate official of an elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school);

"(v) by a person in accordance with a contract that the appropriate official of the elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school) has entered into with the person or employer of the person;

"(vi) by a law enforcement officer acting in an official capacity; or

"(vii) that is unloaded and possessed by a person while traversing the premises of the elementary or secondary school for the purpose of gaining access to public or private lands open to hunting, if the entry on the premises of the elementary school or secondary school is authorized by the appropriate official of the school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school).

"(3) WAIVER.—A State law described in paragraph (2) may provide for a procedure under which the application of a portion of a revocation or withholding period under paragraph (2)(A) or (B) may be waived if—

"(A) at least 50 percent of the withholding or revocation period has expired; and

"(B) the person subject to the revocation or withholding period establishes, in a manner satisfactory to the head the State entity described in paragraph (2), that—

"(i) the person is not the subject of any criminal charge (other than a charge related to the possession of a handgun that resulted in the revocation or withholding);

"(ii) the person has not been the subject of a criminal conviction for engaging in a criminal activity during the withholding or revocation period (other than a conviction directly related to the possession of a handgun that resulted in the revocation or withholding); and

"(iii) there is a compelling reason to waive the remainder of the revocation or withholding period.

"(4) DUE PROCESS.—A State, in implementing a law described in paragraph (2), shall follow such procedures (including procedures to ensure that affected persons are afforded due process of law) as the Constitution may require.

"(5) DEFINITIONS.—In this subsection—

"'elementary school' has the meaning stated in 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

"'handgun' means—

"(i) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(ii) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

"'premises', in reference to an elementary school or secondary school, includes the school building and the grounds of the school.

"'secondary school' has the meaning stated in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the government of a State or political subdivision of a State to enact and enforce a law that imposes a penalty that exceeds or supplements the penalties authorized under this subsection.

At the appropriate place in the bill, insert the following:

SEC. . AUTHORITY TO RELEASE CERTAIN CONFIDENTIAL INFORMATION RELATING TO ALIENS.

Section 245A(c)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by striking out "except that the Attorney General" and all that follows through "section 8 of title 13, United States Code." and inserting in lieu thereof "except that the Attorney General—

"(i) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien (as a result of an investigation of the alien by an investigative officer or law enforcement officer) that is necessary to locate and identify the alien if (I) such disclosure may result in the discovery of information leading the location and identity of the alien, and (II) such disclosure (and the information discovered as a result of such disclosure) will be used only for criminal law enforcement purposes as against the alien whose file is being accessed.

"(ii) may furnish information under this section with respect to an alien to an official coroner (upon the written request of the coroner) for the purposes of permitting the coroner to identify a deceased individual; and

"(iii) may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed to the Secretary of Commerce under section 8 of title 13, United States Code.".

At the appropriate place insert the following:

Subtitle .—Deportation of Aliens Convicted of Crimes

SEC. . EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceed $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18 United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 875, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585 or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5

years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph. The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered before, on, or after the date of enactment of this Act.

SEC. . DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. . JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) Procedure.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the term of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commission shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of

section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. . ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence: "For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. . MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or, agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. . CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

SEC. . EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end thereof the following:

"An applicant for asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for asylum to engage in employment in the United States, in the discretion of the Attorney General. The Attorney General may provide for the expedited deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status."

(b) There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. . IMPROVING BORDER CONTROLS.

(1) There are authorized to be appropriated such sums as are necessary to increase INS's resources for the Border Patrol and the Inspections Program to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents.

SEC. . EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(1) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(2) Authorization of appropriations. There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

SEC. . CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in fiscal year 1995 to construct or contract for the construction of two INS Service Processing Centers to detain criminal aliens and such sums as are necessary in fiscal year 1996 to construct or contract for the construction of two additional Service Processing Centers.

At the appropriate place in the bill, add the following new section:

AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY FOR EACH OF THE FISCAL YEARS 1994, 1995, 1996, 1997 AND 1998.

SEC. . (a)(1) The Secretary of the Treasury shall establish no less than 50 Gang Resistance Education and Training (GREAT) projects to be located in communities across the country. Such amount shall be in addition to the number of projects currently funded.

(2) Communities identified for such GREAT projects shall be selected by the Director of the Bureau of Alcohol, Tobacco and Firearms, acting through the Secretary of the Treasury, on the basis of gang-related activity in that particular community.

(3) The Secretary of the Treasury shall make available no less than $800,000 per project, subject to appropriation, and such funds shall be allocated fifty percent to the affected State and local law enforcement and prevention organizations participating in such projects, and fifty percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

(b) There are authorized to be appropriated $30,000,000 for salaries and expenses of the Bureau of Alcohol, Tobacco and Firearms for the hiring, training, and equipping of no less than 200 full-time equivalent agent positions for the investigation of the trafficking of guns to juveniles and gangs, and the tracing of firearms used in the commission of violent crimes, and no less than 100 full-time equivalent inspector positions for the Firearms Compliance program and dealer policing activities.

(c) There are authorized to be appropriated $6,000,000 for the salaries and expenses of the United States Secret Service for the hiring, training and equipping of additional full-time equivalent positions to supplement current investigative authorities.

At the appropriate place in the bill, insert the following:

Since we are losing control of our streets and our neighborhoods to gangs, drugs and violent crime;

Since Americans tolerate a level of violence 5 times that of Canada and 10 times that of England;

Since the Senate is about to adopt the Comprehensive Crime Control and Law Enforcement Act which establishes a $22,268,000,000 Violent Crime Reduction Trust Fund to combat the violent crime epidemic in this country;

Since the Comprehensive Crime Control and Law Enforcement Act authorizes the revenues to fund the Trust Fund be derived from savings resulting from a reduction in Federal personnel;

Since the Federal law enforcement agencies charged with carrying out the provisions of the Comprehensive Crime Control and Law Enforcement Act will require substantial manpower to implement the Act: Now, Therefore, it is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

At the appropriate place in the bill, add the following new title:

TITLE —POLICE PARTNERSHIPS FOR CHILDREN

SEC. 01. SHORT TITLE.

This title may be cited as the "Police Partnerships for Children Act of 1993".

SEC. 02. FINDINGS.

Congress finds the following:

(1) Homicide is the second leading cause of juvenile injury deaths for all youth 15 to 24 years of age.

(2) Homicide rates for children and youth have more than doubled since 1950.

(3) Teenagers are more than twice as likely as adults to be victims of violent crime, such as rape, robbery or assault.

(4) Physical fighting severe enough to require medical treatment for at least one participant occurs among high school students in patterns similar to those of homicide. The incidence rates of such physical fighting are higher for males than females, higher for minorities than for nonminorities, and more frequent between acquaintances than among strangers.

(5) Children increasingly live amidst chronic community violence and experience trauma as a result of such violence. One survey of inner-city children 6 to 10 years of age found that over 90 percent had witnessed some type of violence. A Chicago housing project survey found that virtually all children in such survey had firsthand experiences with shootings by the age of 5.

(6) Children who have been the victims of, or who have witnessed violence, are at risk of becoming involved in further violence if the trauma such children have experienced is not addressed.

(7) Police frequently encounter children who have been the victims of violence or who have witnessed violence in the course of the police work, but the police often lack the resources necessary to adequately respond to such children's needs. Child and family service agencies have expertise in child development and family issues that could support police efforts.

(8) Community-based police, by their visibility at the neighborhood level and their engagement in benign activities, can provide role models and resources to promote the well-being of children and families, as well as to identify and refer those at risk for behavioral problems.

SEC. 03. PURPOSES.

The purposes of this title are to—

(1) augment law enforcement services and community policing efforts by providing accessible crisis intervention services for children who are involved in violent incidents, and training for law enforcement officers in child development, family, and cultural issues.

(2) identify children and families at high risk for developing behavorial or emotional problems resulting from exposure to community violence and provide mental health and other support services to such children and families, including crisis intervention for child witnesses and victims of violence;

(3) facilitate interaction between law enforcement agencies, child and family service organizations, local educational agencies, and other community members for the purpose of building coalitions for the prevention of community violence; and

(4) provide role models for high-risk children and youth and promote conflict resolution training for children and youth in local educational agencies.

SEC. 04. DEFINITIONS.

For purposes of this title:

(1) CHLD AND FAMILY SERVICE ORGANIZATION.—The term "child and family service organization" means a public or private nonprofit entity (such as child guidance centers, child psychiatry or child psychology departments of hospitals or university medical centers, or community mental health centers providing child and family services) that provides mental health services to children and families and that meets nationally recognized guidelines (such as guidelines prescribed for mental health centers and for child welfare and family service agencies) with respect to the services provided to children and families.

(2) COMMUNITY-BASED POLICING.—The term "community-based policing" means a commitment and an effort (within the confines of budget restrictions) made by a law enforcement agency to establish or expand cooperative efforts between the police and a community in order to increase police presence in the community, including—

(A) developing innovative neighborhood-oriented policing programs and community-based crime-prevention programs; and

(B) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level, including the permanent assignment of officers to a specific neighborhood or substation.

(3) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an entity that serves a specific community and has the routine responsibility of policing the activities of such community.

SEC. 05. GRANTS AUTHORIZED.

(a) IN GENERAL.

(1) ESTABLISHMENT GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, and where appropriate the Secretary of Education, shall, subject to availability of appropriations, award grants to law enforcement agencies determined to be eligible under section 06 for the establishment of law enforcement and child and family services partnership programs to carry out activities described in section 06.

(2) PRIORITY.—In awarding grants described in paragraph (1), the Attorney General shall give priority to a law enforcement agency that—

(A) is engaged in community-based policing; and

(B) intends to target such agency's programs at disadvantaged communities.

(b) GRANT AMOUNT.—

(1) IN GENERAL.—A grant awarded under this section shall be of sufficient size and scope to adequately support all anticipated activities.

(2) ADDITIONAL AMOUNTS.—

(A) IN GENERAL.—The Attorney General may award additional grant amounts for the purpose of enabling a law enforcement agency (as described in section 06(a)(1)) to provide mentoring or conflict resolution services.

(B) SPECIAL RULES.—

(i) PRIORITY FOR MENTORING SERVICES.—In awarding additional grant funds for the provision of mentoring services under subparagraph (A), the Attorney General shall give priority to a law enforcement agency (as described in section 06(a)(1)) that demonstrates commitments from a broad spectrum of community groups to participate in mentoring programs.

(ii) CONFLICT RESOLUTION SERVICES.—In awarding additional grant funds for the provision of conflict resolution services under subparagraph (A), the Attorney General may not award grant funds to a law enforcement agency (as described in section 06(a)(1)) unless such agency demonstrates a commitment from the local educational agency to provide conflict resolution programs in the schools in participation with such agency.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this section may not exceed—

(A) with respect to the first fiscal year, 80 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year;

(B) with respect to the second fiscal year, 70 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year; and

(C) with respect to the third fiscal year, 60 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year.

(2) IN-KIND CONTRIBUTIONS.—The Attorney General shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

(d) GRANT DURATION.—A grant awarded under this title shall be for a period of not less than 3 years.

SEC. 06. APPLICATIONS.

(a) IN GENERAL.—To be eligible for a grant under this section an entity shall—

(1) be a law enforcement agency that has entered into a partnership with a child and family service organization to carry out a program under this title; and

(2) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish.

(b) ASSURANCES.—Each application submitted under subsection (a) shall provide the following assurances:

(1) There is a partnership established between the law enforcement agency and a child and family service organization.

(2) The management at the highest level of the law enforcement agency and the child and family service organization agrees to the establishment of such partnership, and ensures that such agency and such organization of such partnership will cooperate in carrying out the program.

(3) In developing the program, the applicant has coordinated with other segments of the community to ensure that the partnership efforts complement existing community anti-violence efforts.

(4) Programs established from funds received under grants awarded under this title will do the following:

(A) Be collaborative in nature, with respect to organizing and providing the necessary services to children and families.

(B) Provide response to crisis situations 24 hours a day.

(C) Provide confidentiality.

(D) Be able to provide adequate resources for training of law enforcement officers and for support of professional consultation services for children and families, including professionals licensed to provide child and family evaluations and treatment.

(E) Be able to respond to community needs in a manner reflecting sensitivity to the cultural diversity of that community.

(5) The partnership will provide the following program components:

(A) 24-hour consultation service that includes a team of child guidance professionals and specially trained law enforcement officers to respond to incidents where a child has been a perpetrator, a witness, or a victim of violence. Services by child guidance professionals may include in-home assessments, expedited referrals for treatment, treatment in a community where resources are not already available, consultations with parents and teachers, and on-the-spot crisis intervention.

(B) Training for law enforcement officers that includes instruction by child and family

service organizations in the basic principles of human behavior, child psychology, and family systems. All training will be interactive and jointly taught by law enforcement officers and child guidance professionals, in order to make use of real-life examples drawn from officers' experience in the field.

(C) Weekly case conferences by the team of child guidance professionals and law enforcement officers described in subparagraph (A).

(D) Community activities for children and families that are designed jointly by the law enforcement and child and family services partnership, including conflict resolution training programs for children and youth, after-school activity and neighborhood recreation programs, and parent support groups co-led by child guidance and law enforcement professionals.

(6) The partnership will provide local matching funds in accordance with the Federal share requirement under section 05(c).

(7) The applicant will submit to the Attorney General, for each fiscal year for which a grant is received, a report in accordance with uniform standards prescribed by the Attorney General.

(c) ADDITIONAL ASSURANCES FOR MENTORING AND CONFLICT RESOLUTION SERVICES.—

(1) IN GENERAL.—Each application submitted under subsection (a) for additional funding for the provision of mentoring or conflict resolution services under section — 05(b)(2) shall provide assurances described in paragraph (2) or (3), whichever is applicable.

(2) MENTORING.—With respect to the provision of mentoring services, an applicant shall provide assurances that the partnership of the applicant and the child and family partnership organization will—

(A) provide formal mentoring programs that will include mentors such as police officers, child and family services staff, and community and business leaders through a partnership with corporations, universities, labor organizations, nonprofit entities (such as professional societies) or government agencies;

(B) recruit mentors who are representative of the cultural mix of the community such mentors serve;

(C) provide ongoing support services to mentors through the partnership, including a framework for understanding the issues such mentors may encounter in working with youth from deprived environments and ongoing support groups to provide mentors an opportunity to discuss the problems encountered in working with children;

(D) provide practical work experience and, to the extent possible, permanent career opportunities to older youth; and

(E) collaborate, when possible, with elementary and secondary schools, universities, corporations, labor organizations, or government agencies with respect to matters relating to the partnership's mentoring program.

(3) CONFLICT RESOLUTION.—With respect to the provision of conflict resolution services, an applicant shall provide an assurance that the child and family service organization and the law enforcement agency partnership, in collaboration with the local educational agency (hereafter referred to in this subparagraph as the "LEA") will support the LEA in the development and implementation of conflict resolution programs. The support provided to the LEA in the preceding sentence shall be tailored to the needs and resources of the local school district, and may include providing assistance to an ongoing conflict resolution program operated by such LEA, developing curricula for such a program in cooperation with the LEA, and providing such a program to an LEA.

SEC. 07. TRAINING AND TECHNICAL ASSISTANCE.

The Attorney General shall provide training and technical assistance to grantees and child and family service organization with which such grantees have formed a partnership.

SEC. 08. EVALUATION AND REPORTS.

(a) EVALUATION.—The Attorney General shall conduct evaluations to determine the effectiveness of the programs funded under this title.

(b) SUBMISSION OF REPORTS AND EVALUATIONS.—

(1) INTERIM.—Not later than December 31, 1995, the Attorney General shall prepare and submit to the appropriate committees of Congress an interim progress report based on information reported by the grantees and the results (as of the date of the submission of such report) of the evaluation conducted under subsection (a).

(2) FINAL.—Not later than December 31, 1998, the Attorney General shall prepare and submit to the appropriate committees of Congress a review and summary of the results of the evaluation conducted under subsection (a).

SEC. 09. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, of which not more than 10 percent shall be used for the mentoring and conflict resolution activities described in section 06(c).

On page 192, between lines 19 and 20, insert the following:

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity to the offender's counsel to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

At the appropriate place insert the following:

SEC. . REVIEW BY THE ATTORNEY GENERAL OF FEDERAL PRISON CAPACITY AND CONSTRUCTION AND OPERATIONAL STANDARDS FOR STATE AND LOCAL CORRECTIONS FACILITIES.

(a) REVIEW OF FEDERAL PRISON CAPACITY.—The Attorney General shall conduct a review of—

(1) the capacity of the facilities of the Federal Bureau of Prisons;

(2) the number of inmates in those facilities; and

(3) the characteristics of those inmates relative to their likelihood of criminal behavior, and especially violent criminal behavior, if released from custody under supervision.

(b) REVIEW OF STANDARDS.—The Attorney General shall review the standards for construction and operation of State and local corrections facilities contained in the publications entitled "Standards for Small Jail Facilities" and "Standards for Adult and Local Detention Facilities" (3d ed.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall report to Congress on the reviews required under subsections (a) and (b).

(2) CONTENTS.—The report under paragraph (1) shall contain the Attorney General's recommendations for administrative and congressional initiatives to—

(A) release space in the Federal Bureau of Prisons for occupancy by inmates transferred from State correctional facilities, pursuant to section 1321; and

(B) modify standards for construction and operation of local and State correctional facilities.

At the appropriate plan in the bill insert:

Whereas various Federal land, especially environmentally sensitive Federal land, should be made available to the States and territories for certain programs for children and youth;

Whereas federally owned land, such as national parks, fish and wildlife refuges, Bureau of Land Management land, and National Forest Service land, offer an excellent option to solve the problems of siting and zoning commonly faced by programs for neglected, abused, runaway, homeless, disturbed, "at-risk", and delinquent children and teenagers;

Whereas Federal land and personnel administering it offer great educational and personal development opportunities for our young people, who offer in return significant work on the ecology and the promise of a planet-sensitive next generation;

Whereas wilderness settings provide the public security from seriously delinquent, violent teenagers for whom constructive discipline and a challenging environment are proven, effective correctional tools;

Whereas programs for youngsters who pose no threat to the public or themselves may be placed in less remote sites, even within communities: Now, therefore,

Resolved, It is the sense of the Senate that—

(1) the Departments of Justice, Interior, Defense, Agriculture, Commerce, Labor, Education, Health and Human Services, and any other executive branch agencies having properties or resources to devote to a project to make such properties and resources available to programs for children and youth are urged to act cooperatively in the establishment and ongoing support of such programs; and

(2) a nationwide network of small, specialized, residential or nonresidential programs, principally operated by the private sector, under State or local control, and Federal approval and supervision should be established and supported.

On page 447, after line 23, insert the following:

SEC. 2973. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS

The Attorney General shall consult with the Secretary of the Department of Health & Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

At the appropriate place, insert the following new title:

TITLE NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SEC. 01. SHORT TITLE.

This title may be cited as the "National Community Economic Partnership Act of 1993".

Subtitle A—Community Economic Partnership Investment Funds

SEC. 11. PURPOSE.

It is the purpose of this subtitle to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 12. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary") is authorized, in accordance with this subtitle, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this subtitle an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 16.

SEC. 13. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 12(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this subtitle so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100-485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this subtitle; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this subtitle the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 14. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section ___13 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this subtitle to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this subtitle shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this subtitle has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section ___12(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this subtitle shall be used solely for the purposes described in section 11 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this subtitle may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 13(a)(4).

SEC. 15. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this subtitle may be derived from funds made available from a line of credit under this subtitle.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this subtitle shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development, and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this subtitle, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 12(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this subtitle may be used only for the purposes described in section ___11 and shall be reinvested in the community in which they were generated.

SEC. 16. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this subtitle to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section ___32(a)(2)(A) may be reserved

to carry out the activities described in subsection (a).

Subtitle B—Emerging Community Development Corporations

SEC. ___21. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 22. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

Subtitle C—Miscellaneous Provisions

SEC. 31. DEFINITIONS.

As used in this title:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this title.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this title to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this title that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 32. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out subtitles A and B, $40,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995, and 1996.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out subtitle A; and

(2) 40 percent shall be available to carry out subtitle B.

(3) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 33. PROHIBITION.

None of the funds authorized under this title shall be used to finance the construction of housing.

On page 413, line 24, strike "and" after the semicolon.

On page 414, line 3, strike the period and insert "and".

On page 414, between lines 3 and 4, insert the following:

"(5) to fund education programs to teach young individuals about the United States criminal justice system, including education about the applicable penalties for the use and sale of illegal drugs and the commission of violent or drug-related offenses.

On page 118, strike lines 7 through 11 and insert the following:

Subtitle B—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

SEC. 611. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

On page 126, between lines 13 and 14, insert the following:

SEC. 612. GRANTS FOR YOUTH DEVELOPMENT CENTERS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42

U.S.C. 5631 et seq.), as amended by section 611, is amended by adding at the end the following new subpart:

"Subpart III—Youth Violence Prevention Block Grants

"SEC. 238. (a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall subject to availability of appropriations make grants to States to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile violence.

"(b) ISSUES TO BE ADDRESSED.—A program funded under subsection (a) shall address issues identified as contributing to youth violence, which may include—

"(1) conflict resolution programs in schools;

"(2) alternatives to school suspension;

"(3) juvenile court diversion programs; and

"(4) other innovative projects.

"(c) ALLOCATION OF FUNDS.—The amount appropriated under this section for a fiscal year shall be allocated among the States by allocating to each State an amount that bears the same proportion to the amount appropriated as the number of residents of the State under the age of 18 years bears to the number of residents of all of the States under the age of 18 years.

"(d) ADMINISTRATION.—Grants made under this section shall be administered by the State office designated under section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(e) APPLICATIONS BY PUBLIC AND PRIVATE AGENCIES.—

"(1) IN GENERAL.—A public or private agency desiring to receive a grant or enter into a contract under this subpart shall submit an application at such time, in such manner, and containing such information as the office described in subsection (d) may prescribe.

"(2) CONTENTS.—In accordance with guidelines established by the office described in subsection (d), an application under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes described in subsections (a) and (b) and specifically identify each such purpose that the program or activity is designed to carry out;

"(B) provide that the program or activity will be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity will be coordinated with programs, activities, and services available locally;

"(G) provide that regular reports on such program or activity shall be sent to the administering office named in subsection (d); and

"(H) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(f) MATCHING FUNDS REQUIREMENTS.—

"(1) FUNDS RECEIVED UNDER THIS SUBPART.—Funds received through a grant under this section may not be expended for more than 75 percent of the cost of any program that is so funded.

"(2) FUNDS FROM OTHER SOURCES.—In providing for the 25 percent share of the cost of a program from other sources, a State—

"(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, private sources, nonprofit sources, other Federal sources, or any combination of these sources.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1995 and 1996.".

At the end of subtitle C of title XV, add the following:

SEC. . DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. In an action under this section, the court shall determine the occurrence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $250,000, and to grant such other relief, including an injunction, as may be appropriate. Such remedies shall be in addition to any other remedy available under other law.".

At the appropriate place, add the following:

SEC. . JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW INCOME HOUSING.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low income housing.

On page 269, line 6, after "programs" insert "that provide assurances that appropriate aftercare services (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) will be made available".

At the appropriate place insert the following:

SEC. . BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors of the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, and recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor, shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to any estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of documents and documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

" 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of false of fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relating to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

On page 15, line 2, after "community" insert ", including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings".

The Dole amendment (No. 1140) agreed to November 10, 1993, is amended—

On page 21, between lines 20 and 21, insert the following:

"(5) To develop and provide parenting classes to parents of at-risk youth, giving parents the skills they need to provide adequate care and supervision of such youth and to counteract the influences leading youth to a life of gangs, crime, and drugs.

"(6) To develop and provide training in methods of nonviolent dispute resolution to youth of junior high school and high school age.

On page 21, line 21, strike "(5)" and insert "(7)".

On page 21, line 23, strike "(6)" and insert "(8)".

On page 22, line 7, strike "(7)" and insert "(9)".

On page 22, line 12, strike "(8)" and insert "(10)".

On page 22, line 17, strike "(9)" and insert "(11)".

On page 22, line 22, strike "(10)" and insert "(12)".

On page 23, line 3, strike "(11)" and insert "(13)".

On page 23, line 6, strike "(12)" and insert "(14)".

On page 227, line 8, after "officers" insert "or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles".

At the appropriate place insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

(a) FINDING.—The Senate finds the following:

(1) The National Center for Health Statistics has just reported that the out-of-wedlock birth rate reached 29.5 percent in 1991 (66.3 percent in Washington, D.C., 71.0 percent in Detroit).

(2) The out-of-wedlock birth rate has increased without interruption since 1970, and, as pointed out recently by George Will, "the rate of increase is not slowing even at extraordinarily high levels".

(3) Dr. Lee Rainwater of Harvard University predicts that the rate will reach 40 percent within 7 years.

(4) Professor James Q. Wilson has described the erosion of the family structure in the United States and many Western nations as "a major cultural convulsion" that is inextricably associated with the rise of violent urban crime.

(5) President Clinton has stated on the national television program "Meet the Press" that there is "absolutely" a correlation between crime and drugs and the breakdown of the family.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) The Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

(2) The Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

At the end of the bill add the following:

Section 921(a)(17) of Title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

At the appropriate place in the bill, insert the following:

SEC. . CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton in Virginia shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) CONGRESSIONAL HEARINGS.—The Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate shall conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITIONS.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

At the appropriate place, insert:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(b) CONSTRUCTION OF PRISONS.—The Attorney General may contract with the private sector to design, construct or provide any services associated with the regional prisons.

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(3) UTILIZATION OF PRIVATE SECTOR.—Nothing herein shall prevent the utilization of

any grant funds to contract with the private sector to design, construct or provide any services associated with any facilities funded herein.

(4) UTILIZATION OF COMPONENTS.—

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines. The chief executive of a State or the coordinator of a multi-State compact association may designate private sector participants for the design, construction or provision of services associated with any facilities for which funding is requested.

On page 15, line 2, insert ", such as a citizens police academy' " after "community".

On page 25, strike lines 22 and 23, and insert the following:

"SEC. 1710. DEFINITIONS.

"In this part—

"'Career law enforcement officers' means

On page 26, line 2, strike the quotation mark and final period and insert the following:

"'citizens police academy' means a program by local law enforcement agencies or private non profit organizations in which citizens, especially those who participate in neighborhood watch programs, are given training in police policy and procedure, criminal law, the legal system, crime awareness, personal safety measures, and ways of facilitating communication between the community and local law enforcement in the prevention of crime.'".

Strike from line 17 on page 127 to line 20 on page 160 and insert the following:

Subtitle A—Maritime Navigation and Fixed Platforms

SEC. 701. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§2280. Violence against maritime navigation

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship,

"(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

"(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life:

"(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended, (29 U.S.C. §113(c)).

"(d) DEFINITIONS.—In this section—

"'covered' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes; or a ship which has been withdrawn from navigation or laid up.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris—LaGuardia Act, as amended, (29 U.S.C. §113(c)).''

"(d) DEFINITIONS.—In this section—

"'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"'fixed platform' means an artificial island, installation or structure permanently

attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 702. TECHNICAL AMENDMENT.

The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 703. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act;or

(2)(A) in the case of section 2280 of title 18, United States Code, the date of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle B—General Provisions

SEC. 711. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in section 2332a of title 18, United States Code, as added by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§ 2332a. Use of weapons of mass destruction

"(a) DEFINITIONS.—In this section—

"'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'weapon of mass destruction' means—

"(A) any destructive device (as defined in section 921);

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

"(b) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life."

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following new item:

"2332a. Use of weapons of mass destruction.".

SEC. 712. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(e) SECTION 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 713. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 714. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) by inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the Untied States.".

SEC. 715. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extend permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committee by or against a national of the United States.".

SEC. 716. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"In this chapter—

"'Severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses of the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

" 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

" 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSES.—A person who outside the United States commits or attempts to commit torture shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 717. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 718. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following. "; and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 718. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended, (29 U.S.C. § 113(c))."

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 720. PREVENTION ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 719(a), is amended by adding at the end the following new section:

§ 37. Violations of Federal aviation security regulations

"A person who willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 315 or 316 of the Air Transportation Security Act of 1974 (49 U.S.C. App. 1356 and 1357), or a successor part, shall be fined under this title, imprisoned for not more than 1 year, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 719(b), is amended by adding at the end the following new item:

"37. Violations of Federal aviation security regulations."

SEC. 721. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United State Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery ..... 470".

SEC. 722. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or the Secretary's designee, and consist of—

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 723. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows: "(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 724. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felon, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 725. ALIEN WITNESS COOPERATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—(1) by striking "or" at the end of subparagraph (Q), (2) by striking the period at the end of subparagraph (R) and inserting "; or", and (3) by adding at the end of the following new subparagraph: "(S) subject to section 214(j), an alien—"(i) who the Attorney General determines—"(I) is in possession of critical reliable information concerning a criminal organization or enterprise, and "(II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) The Attorney General may, in the Attorney General's discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) NUMERICAL LIMITATIONS; PERIOD OR ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require,

"(B) may not be convicted of any criminal offense in the United States after the date of such admission, and

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning—

"(A) the number of such nonimmigrants admitted,

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens,

"(C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and

"(D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of that section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of that section,

the Attorney General may adjust the status of the alien and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval, and the Secretary of State shall reduce by 1 the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(A) by striking "or" before "(3)" and "(4)"; and

(B) by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 726. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists."

At the appropriate place insert the following:

SEC. . ASSISTANT U.S. ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 50 miles thereof.".

On page 425, strike lines 16 through 25 and insert the following:

SEC. 2904. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "Whoever" and inserting "A person who"; and

(B) by striking "if an individual, be fined not more than $250,000 or imprisoned not more than 5 years, or both, and, if a person other than an individual, be fined not more than $1,000,000" and inserting "be imprisoned not more than 10 years, fined under this title, or both"; and

(2) in the second sentence by striking "if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if other than an individual, shall be fined not more than $5,000,000" and inserting "shall be imprisoned not more than 20 years, fined under this title, or both".

In section 1321(j)(1) (as added by amendment number 1103), strike "$2,000,000,000" and insert "$3,000,000,000".

In section 1321D(3) (as added by amendment number 1103), strike "$4,287,000,000" and insert "$4,267,000,000".

In section 1321(e) of the amendment No. 1103

On page 14, strike lines 4–19.

On page 14, line 20, strike "(4)" and insert "(2)".

On page 15, line 4, strike "(5)" and insert "(3)".

* * * * *

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under the section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS, INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(C) Sec. on 2687 of title 10, United States Code and

(D) any other similar law.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(3) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(10 EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

On page 413, line 19, strike "and illegal drugs" and insert "and use of illegal drugs".

On page 415, line 10, strike "filed" and insert "met".

On page 415, line 17, strike "Spanish." and insert "English and in other appropriate languages."

On page 416, line 22, strike "(3) POPULATION.—The number of students to be served by the plan required under section 2303(c)."

On page 419, line 6, strike "part U" and insert "part W".

At the appropriate place in the bill, insert the following:

"SEC. . Section 1009 of the National Narcotics Leadership Act of 1988 (21. U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1994".

Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "of such", and inserting, "subject to the availability of appropriations, of not less than 75 and such additional".

SEC. . That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1993" and inserting in lieu thereof "1996".

At the appropriate place, insert the following:

SEC. . EXTENSION OF FULL-TIME STATUS OF MEMBERS OF THE UNITED STATES SENTENCING COMMISSION.

Section 992(c) of title 28, United States Code, is amended in the second sentence by striking "six years" and inserting "seven years".

At the appropriate place in the bill, insert the following:

SEC. . CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 23. Court of the United States defined

As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) The analysis for chapter 1 of title 18, United States Code, is amended by inserting at the end the following:

"23. Court of the United States Defined."

The Dole-Boxer-Feinstein Amendment (No. 1102) agreed to November 4, 1993, 18 amended—

(1) On page 1, line 6 by adding the words "not more than" before "ten years";

(2) On Page 1, line 11 by adding the words "not more than" before "twenty years";

(3) On page 2, line 10 by adding the words "not more than" before "ten years"; and

(4) On page 2, line 15 by adding the words "not more than" before "twenty years".

HATCH AMENDMENT NO. 1217

Mr. DOLE (for Mr. HATCH) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM WORK.

(a) FINDINGS.—The Senate finds that—

(1) Federal Prison Industries was created by Congress in 1934 as a wholly owned, nonprofit government corporation directed to train and employ Federal prisoners;

(2) traditionally, one-half of the Federal prison inmates had meaningful prison jobs; now, with the increasing prison population, less than one-quarter are employed in prison industry positions; and

(3) expansion of the product lines and services of Federal Prison Industries beyond its traditional lines of business will enable more Federal prison inmates to work, and such expansion must occur so as to minimize any adverse impact on the private sector and labor.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) all able-bodied Federal prison inmates should work;

(2) in an effort to achieve the goal of full Federal prison inmate employment, the Attorney General, in consultation with the Director of the Bureau of Prisons, the Secretary of Labor, the Secretary of Defense, the Administrator of the General Services Administration, and the private sector and labor, shall submit a report to Congress not later than March 31, 1994, that describes a strategy for employing more Federal prison inmates;

(3) the report shall—

(A) contain a review of existing lines of business of Federal Prison Industries;

(B) consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993); and

(C) make recommendations for legislation and changes in existing law that may be necessary for the Federal Prison Industries to employ more Federal prison inmates; and

(4) the report shall focus on—

(A) the creation of new job opportunities for Federal prison inmates;

(B) the degree to which any expansion of lines of business of Federal Prison Industries may adversely affect the private sector or displace domestic labor; and

(C) the degree to which opportunities for partnership between Federal Prison Industries and small business can be fostered.

The Dole amendment (No. 1140) agreed to November 10, 1993, is amended—

(1) on page 4, line 8, by inserting ", voluntary manslaughter," after "attempted murder";

(2) on page 9, between lines 13 and 14, by inserting the following:

"§ 1933. Joinder

"In a prosecution of an offense under this chapter charging a conspiracy to commit an offense, the trial of all of the alleged conspirators shall be joined in a single district court, and a motion to transfer shall not be granted unless the interest of justice so requires.";

(3) on page 10, line 2, by inserting "(1)" before "The"; and

(4) on page 10, between lines 14 and 15, by inserting the following:

(2) The United States Sentencing Commission shall review and, if necessary, amend its sentencing guidelines to provide that activity of a defendant as an organizer or leader of a criminal street gang shall be an aggravating factor in determining a sentence for an offense under chaper 26 of title 18, United States Code.

Where appropriate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Hunting Safety and Preservation Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting on Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) Federal lands comprise important wildlife habitat resources that—

(A) support many large, diverse, and vital populations of wildlife; and

(B) offer significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting on Federal lands in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to—

(A) the safety of hunters; and

(B) the legal rights of recreational hunters to participate peacefully in lawful hunts on Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks, and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, on Federal lands, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the Untied States; and

(C) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Range land Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the national park system (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those individuals who intend to participate in a lawful hunt, whether the activities occur on Federal lands or upon a public or private road, highway, path, trail, or other normal route of access to Federal lands;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter onto Federal lands or travel in interstate commerce, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or

sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 632. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a hundgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

At the end of title XXVIII, insert the following:

SEC. . STATE LEADERSHIP ACTIVITIES TO PROMOTE SAFE SCHOOLS PROGRAM.

(a) SHORT TITLE; DEFINITIONS.—

(1) SHORT TITLE.—This section may be cited as the "State Leadership Activities to Promote Safe Schools Act".

(2) DEFINITIONS.—For the purpose of this section—

(A) 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));

(B) the term "Secretary" means the Secretary of Education;

(C) 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)); and

(D) the term "State" means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(b) AUTHORITY.—The Secretary is authorized to award grants to State educational agencies from allocations under subsection (c) to enable such agencies to carry out the authorized activities described in subsection (e).

(c) ALLOCATION.—Each State educational agency having on application approved under subsection (d) shall be eligible to receive a grant under this section for each fiscal year that bears the same ratio to the amount appropriated pursuant to the authority of subsection (f) for such year as the amount such State educational agency receives pursuant to section 1006 of the Elementary and Secondary Education Act of 1965 for such year bears to the total amount allocated to all such agencies in all States having applications approved under subsection (d) for such year, except that no State educational agency having an application approved under subsection (d) in any fiscal year shall receive less than $100,000 for such year.

(d) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain a statement of the State educational agency's goals and objectives for violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting those goals and objectives; and

(3) contain a description of how the State educational agency will coordinate such agency's activities under this section with the violence prevention efforts of other State agencies.

(e) USE OF FUNDS.—Grant funds awarded under this section shall be used—

(1) to support a statewide resource coordinator;

(2) to provide technical assistance to both rural and urban local school districts;

(3) to disseminate to local educational agencies and schools information on successful school violence prevention programs funded through Federal, State, local and private sources;

(4) to make available to local educational agencies teacher training and parent and student awareness programs, which training and programs may be provided through video or other telecommunications approaches; and

(5) for other activities the State educational agency may deem appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 and 1996 to carry out this section.

The Byrd amendment (No. 1103) agreed to November 4, 1993, is amended in section 1331(b) of subtitle A (relating to regional prisons) by adding at the end thereof the following: "In making a determination as to the location of regional prisons, the Attorney General shall give appropriate consideration to the feasibility of converting Federal correctional complexes currently in the planning or construction phase.".

In section 1331(b) of the amendment—

(1) insert "IN GENERAL.—" before "The Attorney General"; and

(2) at the end of the subsection add the following:

(2) CONSIDERATION OF COST-EFFECTIVE ALTERNATIVES AND STATE AND LOCAL RE-USE PLANS.—(A) In determining where to locate any of the regional prisons authorized in paragraph (1), and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526) and the Defense Base Closure and Realignment Act of 1990 (Part A of title XXIX of Public Law 101-510) the Attorney General shall consider—

(i) whether using any portion of a closed military installation in the region or military installation scheduled to be closed in the region provides a cost-effective alternative to the purchase of real property or construction of new prison facilities; and

(ii) whether such use is consistent with a reutilization and redevelopment plan. Consent must be obtained from the local reuse authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison authorized in paragraph 1.

(iii) giving priority consideration to any installation located in a rural area whose closure under this title will have a substantial adverse impact on the economy of the communities for the economic recovery of such communities from such closure.

(B) Before proceeding with plans for the design or construction of a prison authorized in paragraph (1), the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

(C) If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a regional prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, do not provide a cost-effective alternative to the purchase of real property or construction of new facilities.

(D) The Attorney General shall obtain all information necessary to determine whether any portion of a closed military installation in the region or military installation scheduled to be closed in the region is a cost-effective alternative to the purchase of real property or construction of new prison facilities.

On page 14, between lines 3 and 4, insert the following:

"(c) TROOPS-TO-COPS PROGRAMS.—(1) Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

On page 14, line 4, strike "(c)" and insert "(d)".

On page 15, strike lines 16 through 22 and insert the following:

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General shall give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve—

(1) a non-Federal contribution exceeding the 25 percent minimum under subsection (i); and

(2) hiring former members of the Armed Forces to serve as career law enforcement officers under subsection (c).

On page 15, line 23, strike "(e)" and insert "(f)".

On page 16, line 20, strike "(f)" and insert "(g)".

On page 16, line 23, strike "(g)" and insert "(h)".

On page 17, line 8, strike "(h)" and insert "(i)".

On page 17, line 21, strike "(i)" and insert "(j)".

On page 17, line 24, strike "(j)" and insert "(k)".

On page 347, strike line 6 and all that follows through page 365, line 3, and insert the following:

SEC. 1701. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 25 members, appointed as follows:

(1) 7 persons by the President, 4 of whom shall be members of one major political party and 3 of whom shall be members of another major political party;

(2) 9 persons by the Speaker of the House of Representatives, 4 of whom shall be appointed on the recommendation of the minority leader; and

(3) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the majority leader of the Senate and the chairman of the Committee on the Judiciary of the Senate and 4 of whom shall be appointed on the recommendation of the minority leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

SEC. 1702. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1703. RESPONSIBILITIES OF THE COMMISSION

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Reviewing all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1711. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1712. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the Untied States (referred to in this subtitle as the "Commission").

SEC. 1713. DUTIES.

(a) In GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1714. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(a) IN GENERAL.—The Commission shall consist of 15 members, as follows:

(A) PRESIDENT.—Four individuals appointed by the President, 2 of whom shall be members of another major political party and 2 of whom shall be members of another major political party.

(B) SENATE.—Five individuals, 3 of whom shall be appointed by the majority leader of the Senate, after consultation with the chairman of the Committee on the Judiciary of the Senate, and 2 of whom shall be appointed by the minority leader of the Senate, after consultation with the ranking minority member of the Committee on the Judiciary of the Senate. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals, 3 of whom shall be appointed jointly by the Speaker and majority leader of the House of Representatives and 2 of whom shall be appointed by the minority leader of the House of Representatives. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(D) MINORITY CONGRESSIONAL LEADERSHIP.—One individual appointed jointly by the minority leader of the Senate and the minority leader of the House of Representatives.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) bio-medicine;

(v) addiction; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1715. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1716. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.— The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1717. REPORTS.

(a) MONTHLY REPORTS.— The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1718. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

SUBTITLE C—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 1721. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act."

SEC. 1722. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1723. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 1724. DUTIES.

(A) IN GENERAL.— The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 29 members as follows:

(1) 9 individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(b) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(2) 9 individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(3) 2 individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) 1 shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) 2 Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) 1 individual from the Department of Justice, appointed by the President.

(7) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the majority leader and the minority leader of the Senate.

(8) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

At the appropriate place, insert the following:

SEC. . FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) Section 3561 of title 18, United States Code, is amended by—

(1) redesignating subsection (b) as subsection (c);

(2) inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term "domestic violence crime" means a crime of violence for which the defendant may be prosecuted in a court of the U.S. in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.

(b) Section 3563 (a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of the paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561 (b) by a defendant convicted of such an offense for the first time that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by the State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by the State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

At the appropriate place, insert the following:

SEC. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

SEC. 316. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVE.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence;

"(2) shall include representatives of pertintent sectors of the local community, which may include the following—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions;

"(G) business and civic leaders; and

"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors; and

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $20,000,000 for fiscal year 1995; and

"(2) such sums as are necessary for fiscal years 1996, 1997, and 1998,

to remain available until expended.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

At the appropriate place insert the following :

SEC. . SENSE OF THE SENATE.

(a) DECLARATIONS.—The Congress declares that—

(1) it is the stated purpose of this Act, in part, to rehire law enforcement officers who have been laid off as a result of State and local budget reductions in community-oriented policing and to hire new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

(2) this affirms that local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities;

(3) a key element to fighting crime in America is to put more police officers on the street, and the Senate, in an effort to help the States and localities hire additional police officers in the short term, will, through the trust fund established by this bill, make funds available to local units of government for this purpose;

(4) The Senate should not add to the financial burden on local communities is reduced so that essential local services can be paid for by local government;

(5) The United States Conference of Mayors, on October 27, 1993, issued a study outlining the cost of just 10 unfunded Federal mandates on the reporting cities, and found the cost to those cities to be $54,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities; and

(2) one way of providing more funds to units of local government for law enforcement is aggressively address the issue of unfunded Federal mandates.

On page 16, line 25, strike "0.5" and insert "0.6";

On page 186, between lines 4 and 5, insert the following:

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

On page 186, line 5, strike "(4)" and insert "(5)".

On page 186, line 8, strike "(5)" and insert "(6)".

On page 186, line 10, strike "(6)" and insert "(7)".

On page 190, strike lines 21 through 25;

On page 191, strike lines 1 through 4.

At the appropriate place of the bill, add the following:

Subtitle —Correctional Job Training and Placement

SEC. . SHORT TITLE.

This title may be cited as the "Office of Correctional Job Training and Placement Act of 1993".

SEC. . CORRECTIONAL JOB TRAINING AND PLACEMENT.

"(a) FINDINGS.—Congress finds that—

"(1) job training and placement are important to, and make a significant contribution to, the readjustment to society of incarcerated persons and ex-offenders; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

"(b) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

"(c) DEFINITIONS.—As used in this section:

"(1) CORRECTIONAL INSTITUTION.—The term 'correctional institution' means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term 'correctional job training or placement program' means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

"(3) EX-OFFENDER.—The term 'ex-offender' means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

"(4) INCARCERATED PERSON.—The term 'incarcerated person' means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

"(d) ESTABLISHMENT OF OFFICE.—

"(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

"(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

"(e) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

"(1) assist in coordinating the activities of the Federal Bonding Program of the Department of Labor, the activities of the Department of Labor related to the determination of targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

"(2) provide technical assistance to State and local employment and training agencies that—

"(A) receive financial assistance under this Act; or

"(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

"(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement:

"(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

"(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

"(6) consult with, and provide outreach to—

"(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

"(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

"(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

"(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

"(B) disseminate such information, as appropriate.".

At the appropriate place, add the following:

"SECTION 1. ASSET FORFEITURE.

(a) Section 524 of title 28, United States Code, is amended—

(1) by redesignating subsection (c)(1)(H) to be subsection (c)(1)(I); and

(2) by inserting a new subsection (c)(1)(H) as follows:

"(H) the payment of state and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and".

(b) The provisions of this section shall apply to all claims pending at the time of or commenced subsequent to the date of the enactment of this Act.

On page 127, after line 15, insert the following:

SEC. XXX. PROHIBITION OF THE SALE AND TRANSFER FOR CONSIDERATION OF A HANDGUN OR HANDGUN AMMUNITION TO A JUVENILE.

(a) Offense.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(t)(1) Except as provided in paragraph (3), it shall be unlawful for any person to sell or otherwise transfer for consideration to a person who the seller or transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) For purposes of this subsection—

"(i) the term 'juvenile' means a person who is less than 18 years of age; and

"(ii) the term 'handgun' means—

"(I) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(II) any combination of parts from which a firearm described in subclause (I) can be assembled.

"(3) This subsection shall not apply to a sale or a transfer of a handgun or ammunition if the sale or transfer was made in accordance with state and local law and with the prior consent of the juvenile's parent or legal guardian who is not prohibited by Federal, state, or local law from possessing a firearm.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking out "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph;

"(5)(A) Except as provided in subparagraph (B), whoever knowingly violates subsection (t) of section 922 shall be fined not more than $5,000, imprisoned not more than five years, or both.

"(B) Whoever knowingly violates subsection (t) of section 922 knowing or having reasonable cause to know that the juvenile to whom the handgun or ammunition was sold or otherwise transferred for consideration intended to carry, possess, discharge, or otherwise use such handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

At the appropriate place add the following:

SEC. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22)

of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

In lieu of the matter proposed to be inserted, insert the following:

SEC. . CHILD-CENTERED ACTIVITIES.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1993".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) public-private partnerships between government and community-based organizations offer an opportunity to—

(A) empower distressed and disconnected communities to develop their resources and abilities in order to meet the needs of children;

(B) forge innovative solutions to the challenges confronting the development of the children in such communities; and

(C) create environments where children grow up learning a healthy respect for themselves, for neighbors, and for their communities;

(2) increased resources should be invested in public-private partnerships; and

(3) community-based organizations, acting through such public-private partnerships—

(A) should provide year-round supervised sports programs, and extracurricular and academic programs, for children in the communities; and

(B) in providing such extracurricular and academic programs, should promote the positive character development of such children through programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities.

(c) FINDINGS.—The Congress finds that—

(1) parents are devoting less time than in previous generations to the supervision, education, and nurturing of their children;

(2) the lack of supervision and meaningful activity after school contributes to the spread of violent juvenile delinquency in the form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among children in our Nation;

(3) every child has the capacity to be productive and law abiding and deserves to grow in a safe and protected environment;

(4) communities have a responsibility to develop the children of our Nation into productive adults;

(5) because of their centrality, public schools are among the best facilities that communities can use to provide needed space and support services for programs for children;

(6) schools are most effective at serving a community when the people of the community are involved in activities designed to fulfill the needs of children in the community; and

(7) activities provided in community centers, recreational facilities, and other places where children gather, have a significant impact and influence on the behavior and attitudes of children.

(d) DEFINITIONS.—As used in this section:

(1) COUNCIL.—the term "Council" means the Ounce of Prevention Council.

(2) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(3) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders activity involved in providing employment and business development opportunities in the community.

(iii) Educators.

(iv) Religious organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State Government.

(viii) Other public agencies.

(ix) Other interested parties.

(4) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to subsection (g).

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(6) PUBLIC SCHOOLS.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(e) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Council shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Council may award grants from the appropriate State allocation determined under subparagraph (A) to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Council determines that funds allocated for community-based organizations in a State under subparagraph (B) remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. In awarding such grants, the Council shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Council may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(f) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) where appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months; and

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance and substance abuse treatment where appropriate

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or instruction.

(g) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Council may by regulation require.

(h) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(ii) make a local facility described in subsection (f)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;

(ii) businesses;

(iii) a school district;

(iv) local officials;

(v) State officials; and

(vi) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (f)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (f)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a ratio of at least 1 staff member (including volunteers) for each 20 participants in the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Council.

(O) contain an assurance that the community-based organization shall prepare and submit to the Council an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Council shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(i) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, a community-based organization may exclude a child from participation in such a program if the organization determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(j) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Council shall establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(A) A community-based organization.

(B) A local government.

(C) A school district.

(D) The private sector.

(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of such Committee.

(3) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Administrator under subsection (h), make recommendations to the Council regarding—

(A) grant funding under this section;

(B) a design for the evaluation of programs assisted under this section; and

(C) methods for achieving effective coordination between programs carried out under this section and programs carried out through Olympic Youth Development Centers under section .

(k) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(l) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—The Council shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection (h) the Federal share of the costs of developing and carrying out programs referred to in subsection (e).

(B) FEDERAL SHARES.—The Federal share of such costs shall be—

(i) 75 percent for each of the fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (h)(2)(P)).

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(m) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $100,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out this section.

SEC. . OLYMPIC YOUTH DEVELOPMENT CENTERS.

(a) DEFINITIONS.—As used in this section:

(2) CHILD.—The term "child" means an individual who is not younger than 8 and not older than 18.

(3) COMMITTEE.—The term "Committee" means the United States Olympic Committee.

(b) GRANT.—The Council may make a grant to United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through such centers.

(c) PROGRAM REQUIREMENTS.—

(1) LOCATION.—The Committee, on receiving a grant under this section to establish

such a center shall ensure that the center is established in an appropriate facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(2) CENTERS.—The Committee shall, subject to the availability of appropriations, not later than 1 year after the date of enactment of this Act, establish not fewer than 6 such centers, and shall, subject to the availability of appropriations, to the extent possible, establish not less than 1 such center in each State by fiscal year 1997. In selecting locations for such centers, the Committee shall consider the need to maintain geographic diversity, and to maintain a balance of urban and rural locations for such centers.

(3) USE OF FUNDS.—The Committee—

(A) may use funds made available through the grant to provide supervised sports and recreation programs that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the Committee receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, and provision of first aid and nutrition guidance; and

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(C) may not use such funds to provide sectarian worship or instruction.

(4) DESIGNATION.—The Committee may, at the discretion of the Committee, designate facilities through which programs are carried out under the Community Schools Youth Services and Supervision Grant Program Act of 1993 as Olympic Youth Development Centers. Such designation shall not entitle the programs to receive assistance under this section.

(5) EXECUTIVE DIRECTOR.—The Committee shall appoint an Executive Director to coordinate the centers and programs described in subsection (b), and shall appoint a Director for each such center to carry out such programs at the center.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, the Committee shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—The application submitted pursuant to paragraph (1) shall—

(A) contain an assurance that the program to be carried out through the center for which the grant is sought will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(B) contain an assurance that the Committee will comply with any evaluation under subsection (i), any research effort authorized under Federal law, and any investigation by the Administrator;

(C) contain an assurance that the Committee shall prepare and submit to the Administrator an annual report regarding any program conducted under this section;

(D) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources;

(E) contain an assurance that the Committee will maintain separate accounting records for the program; and

(F) contain an assurance that the program will include outreach efforts in order to encourage participation in the program.

(e) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—The Committee shall select children to participate in programs that receive assistance under this section without regard to the athletic ability of the children. In selecting children to participate in programs that receive assistance under this section, the Committee shall give priority to children from low-income communities and high-crime areas with demonstrated gang activity, as determined in accordance with regulations issued by the Council.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, the Committee shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, the Committee may exclude a child from participation in such a program if the Committee determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that a child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(f) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(g) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—On approval of an application under subsection (d), the Council shall subject to the availability of appropriations pay to the Committee the Federal share of the costs of establishing the centers and carrying out the programs described in subsection (b).

(B) FEDERAL SHARE.—The Federal share of such costs shall be—

(i) 75 percent for fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (d)(2)(D)).

(B) SPECIAL RULE.—The Committee may not charge fees for the participation of children in programs carried out under this section.

(h) REPORTS.—At the end of each fiscal year, the Council shall submit to Congress a report on the activities conducted under this section, including a summary of the information in the report submitted under subsection (d)(2)(C).

(i) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $25,000,000 for each of fiscal years 1994, 1995, 1996, and 1997, to carry out this section.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available until expended.

On line 9 of page 28, after the word "code", delete the rest of the sentence and insert "$50,000,000 for fiscal year 1994 and $25,000,000 for each of fiscal years 1995, 1996 and 1997 to carry out this section."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, November 18, 1993, at 3 p.m. in SR-332 on the nominations of John E. Tull, Jr., Barbara Pedersen Holum, Anthony A. Williams, Michael V. Dunn, Wally B. Beyer, and Grant B. Buntrock; S. 1627, Implementing legislation for the North American Free-Trade Agreement; and pending legislation.

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

COMMITTEE ON ARMED SERVICES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Armed Sevices be authorized to meet on Thurdsay, November 18, 1993, at 10 a.m., in open and executive session to consider the following nominations: Togo Dennis West, Jr., to be Secretary of the Army; Joe Robert Reeder, to be Under Secretary of the Army; and Richard Danzig to be Under Secretary of the Navy.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. 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 Thursday, November 18, 1993, at 10 a.m. to mark up the committee prints on fair trade in financial services and interstate banking.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 10 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., November 18, 1993, to receive testimony from Christine Ervin, nominee to be Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.

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

COMMITTEE ON FINANCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 11 a.m. to consider S. 1627, the North American Free-Trade Agreement Implementation Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 18, 1993, at 4 p.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 18, 1993, at 10 a.m. to hold a business meeting.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, November 18, at 9:30 a.m., for a hearing on the subject: "Gun Violence: Do Stolen Military Parts Play a Role?"

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, November 18, 1993, at 2:30 p.m. for a hearing on the nomination of Steven Kelman, to be Administrator of the Office of Federal Procurement Policy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, November 18, 1993, for a markup on the Governmental Affairs Committee portion of the NAFTA legislation.

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

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, November 18, 1993.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs and the House Subcommittee on Native American Affairs, Committee on Natural Resources, be authorized to meet on Thursday, November 18, 1993, beginning at 5 p.m., in HC–8 of the Capitol Building on H.R. 1268, the Indian Tribal Justice Act.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, November 18, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building to consider for report to the Senate, S. 1618, Tribal Self-Governance; H.R. 1425, American Indian Agriculture Act of 1993; S. 1654, Technical Amendments; S. 1501, to repeal certain provisions of law relating to trading with Indians; and for other purposes, to be followed immediately by a hearing on S. 1345, the Equity in Educational Land-Grant Status Act of 1993.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Health Security Act and the needs of rural America, during the session of the Senate on November 18, 1993, at 10 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Health Security Act and the role of the pharmaceutical industry, during the session of the Senate on November 18, 1993, at 2:30 p.m.

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

SUBCOMMITTEE ON CONSUMER

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 10:30 a.m. on arson prevention.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be permitted to meet today at 2 p.m. to hear witnesses testify on shipbuilding issues and legislation to address foreign shipbuilding subsidies.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 18, 1993.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 2 p.m. on impact of recent diesel fuel price increases on the motor carrier industry.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, PUBLIC BUILDINGS, AND ECONOMIC DEVELOPMENT

Mr. BAUCUS. Mr. President, I ask that the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 18, beginning at 10 a.m., to conduct a hearing to receive testimony from the General Services Administration regarding the public buildings projects in the fiscal year 1994 Treasury, Postal Service and General Government appropriations bill.

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

ADDITIONAL STATEMENTS

THE 1993 GOLDEN APPLE AWARD WINNERS

• Mrs. MURRAY. Mr. President, countless times every day our communities

are enriched by public schoolteachers who instill in our children the desire for knowledge, the challenge of learning, and the spark of creative problem solving. It is this daily effort by our schoolteachers that binds our communities into the rich, vibrant society our Nation is. The individual accomplishments of these teachers do count. As Robert F. Kennedy once said, each of these people "sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."

I stand before Congress today, in praise of specific teachers, schools, and institutions in Washington State who have excelled at furthering the responsibility of education in America. This is the second time during my tenure that I have had the honor of recognizing some of the people and institutions from my State for their achievements in the cause of public education.

Following are the 1993 winners and sponsors of Seattle's public broadcasting station KTCS's Golden Apple Awards to outstanding teachers and schools for exceptional teaching and educational innovation:

SARANN GRAHAM, NORTH CENTRAL HIGH SCHOOL, SPOKANE

Sarann Graham is "the Rover" of North Central, a program which provides one full-time teacher working throughout the school to meet the learning needs of students as well as the professional needs of teachers. As the "roving" teacher, Sarann provides support to classroom teachers as they explore and experiment with new teaching techniques and encourages successful learning experiences among students. The position has allowed Sarann to work in classrooms from Home Economics to Auto Shop and Social Studies helping teachers create better programs for their students.

WARREN LEVENHAGEN, TYEE HIGH SCHOOL, SEATAC

Three years ago during the remodeling of Tyee High School, physics and chemistry teacher Warren Levenhagen had an idea—to convert an outbuilding that was scheduled for demolition into an observatory. He did the design and planning, obtained the necessary permits, raised money, salvaged used materials, and then with the help of students, did all the construction. Tyee now boasts the only high school observatory in the state, part of an enhanced science curriculum at the school as well as a popular field trip destination for area elementary and middle schools.

JOE RICE, MADRONA SCHOOL, EDMONDS

Nine years ago, principal Joe Rice began to make changes in his school and now he has a waiting list of 500 students that want to attend his non-graded, multi-aged classes. Teachers at Madrona focus on the uniqueness and gifts of each child and the belief that all can and will learn. The result is a student population that is prepared for the 21st century—more self-directed, able to make wise decisions, and solve ever-changing problems.

RICHARD THOMPSON, INGRAHAM HIGH SCHOOL, SEATTLE

As head of Ingraham's award-winning auto shop and a teacher of technical science, Richard Thompson recognizes the value of vocational and technological education within an academic environment. He is a master teacher who has the ability to develop projects that allow students to be creative, excited about learning, and successful. Richard's have built and raced class project cars and set land speed records at the Bonneville Salt Flats, and for two years his students in Applied Physics have designed, built, raced, and won the state championship for radio controlled solar cars.

ELINOR VANDEGRIFT, SNOHOMISH SCHOOL DISTRICT, SNOHOMISH

As an adapted PE specialist, Elinor Vandegrift enables physically challenged students throughout the Snohomish school district to participate in physical activities. Her major objective is to empower students to participate in activities with their neighbors, their peers at school and their families by learning basic motor skills, applying them in non-competitive game situations. Elinor's students also benefit from Sno-Wheels, an after-school wheelchair activity group which meets weekly for fun and fitness activities.

CAROLE WILLIAMS, B.F. DAY ELEMENTARY SCHOOL, SEATTLE

As principal of B.F. Day Elementary School, Carole Williams has worked tirelessly to provide all her students, especially the large number of homeless children, a unique program which provides support and nurturing side by side with academics. Because of Ms. Williams' efforts over the past eight years, B.F. Day has grown from a racially and socio-economically divided school to one where everyone pulls together. Without exception, she and her staff go far beyond the norm to make learning accessible and meaningful to students who all too often slip through the cracks.

CONCRETE SCHOOL DISTRICT, DR. DON JEANROY

As the rest of the state debates school reform, Concrete School District is miles ahead of the game. In the past four years, parents, teachers and administrators in Concrete have worked together to make sweeping changes in the way they educate their children, including a complete restructuring of the elementary school program and training of faculty in new and innovative teaching strategies that has resulted in increased student achievement.

HUTCH SCHOOL, FRED HUTCHINSON CANCER RESEARCH CENTER, TERI HEIN

The Hutch School is a unique school program of Fred Hutchinson Cancer Research Center that serves children in grades K–12 who are bone marrow transplant patients and the children or siblings of transplant patients. For patient students, the Hutch School provides a program that is more than just academic, it is about hope for the future, normalcy, and distraction from the immediate pain they are feeling. Hutch School's family member school group is run from the immediate pain they are feeling. Hutch School's family member school group is run like a one-room schoolhouse with an ever-changing student population at different skill levels and needs, but all supporting each other. Teachers at the Hutch School go to incredible lengths to design innovative curricula and create opportunities for learning for their special students.

INTIMAN THEATRE'S LIVING HISTORY PROJECT, DANIEL RENNER

Since 1986, Intiman Theatre's Living History Project has reached over 75,000 students across the state with an exciting program that uses theatre to teach literature, history and social studies. Multi-racial teams of Intiman actor/teachers spend a week in high school classrooms where scenes from dramatic literature serve as a springboard for learning and discussion, encouraging students to employ critical thinking skills and express their opinions.

SEAGULLVILLE, JIM HASZ

Over ten years, Jim Hasz and hundreds of parent and community volunteers have built Seagullville, an authentic, life-size Washington frontier town where children can learn first hand about history and how to build a community. Seagullville has a mock city council, mayor, sheriff, barber, as well as gold fields, a trading post, bank, and three restaurants. The town is owned and operated by Jim Hasz's third grade class at Pinetree Elementary in Kent, and each year they play host to other elementary school classes who come and spend a day experiencing frontier life in Seagullville.

KCTS/9, SEATTLE

Founded in 1954, KCTS/9 is the premiere public television station in the Pacific Northwest. Each week, more than 2 million viewers in Washington and British Columbia turn to Channel 9 for the excellent science, nature, public affairs, and arts programming they have come to expect from public television. In addition to providing quality programming, KCTS works to link broadcast resources with community needs. As a founding member of the Public Television Outreach Alliance, KCTS is a leader among public television stations in producing national and local outreach projects on important issues such as AIDS, childcare, and the environment. The Golden Apple Awards are part of the station's ongoing efforts to support education in our community.

FIRST INTERSTATE BANK NORTHWEST REGION

First Interstate Bank's five-state Northwest Region is part of First Interstate Bancorp, the 13th largest commercial banking company in the United States. We provide financial products and services to more than one-third of the four million households alone within the NW Region. At First Interstate, we believe that the organization is only as strong as the communities serve and we are proud of our nearly 7,000 employees throughout the NW Region who are committed to making their neighborhoods better places to live and work. Local teams of employees throughout the region meet regularly to distribute both human and financial resources to our two areas of philanthropic focus—education and community development. The teams recognized sponsorship of the Golden Apple Awards as a significant way to help highlight some of the terrific things happening in our schools. We also believe the Golden Apple Awards promote outstanding examples of success that can be duplicated in other classrooms. From Yakima to Pocatello, Eugene to Oak Harbor, Kalispell to Seattle, employee leadership drives this commitment to community involvement.

CITIZENS EDUCATION CENTER

Citizens Education Center (CEC), founded in 1979, is the only independent, statewide, nonprofit organization dedicated to improving the quality of education for all children in Washington state through informed participation in education and the public policy process. CEC builds relationships among schools, families, businesses, and communities, helps schools become more effective and innovative centers of learning, and promotes a continual focus on what is in the best interest of children.

KSPS TV, SPOKANE

KSPS-TV, Channel 7, is the Spokane member of the Public Broadcasting Service. Licensed and funded in 1967 by the Spokane Public School District No. 81, it provides educational programs for classroom teachers on request via four cable channels and broadcasts a full complement of entertainment from PBS and other international and national sources. KSPS serves a broadcast market of 320,000 households and an additional 630,000 households through cable. Eighty-five per cent of the revenues for the station's $4 million annual budget comes from voluntary memberships to Friends of 7 from throughout the viewing area which includes the southeastern portion of British Columbia, all of Alberta, and parts of Idaho, Montana, Oregon, and Washington.

KYVE TV, YAKIMA

Licensed to the community of Yakima, KYVE was founded in 1962 by a consortium of Yakima Valley school districts to bring educational television into the classroom. KYVE is seen by approximately 200,000 viewers in Yakima County and parts of Kittitas, Benton, and Chelan counties. Under the leadership of general manager Warren Dean Starr, KYVE focuses on quality family and children's television. Local fundraising, in the form of memberships, an annual auction, and special events, enables KYVE to continue to enjoy one of the highest per capita support bases in the PBS system.•

LOWER TRUCKEE RIVER, NV

• Mr. REID. When the energy and water appropriations bill passed the Senate, it contained $400,000 to be used by the Army Corps of Engineers for the Lower Truckee River in Nevada. I would like to clarify the purpose of the appropriation. Was it the intent of the subcommittee that the funds were to be used for the resumption of the reconnaissance study of the river?

Mr. JOHNSTON. Yes; it was the subcommittee's intent that the $400,000 appropriation for the Lower Truckee River in Nevada was to be used to resume the reconnaissance study. The funds have been provided to the Secretary of the Army, acting through the Chief of Engineers, to complete the reconnaissance report within 12 months from the date of resumption.

Mr. REID. I thank the Senator for that clarification.•

STATEMENT UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

• Mr. SASSER. Mr. President, discharging my ministerial duty on behalf of the Committee on the Budget, under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 64, I hereby submit revised budget authority and outlay allocations to the Senate Committees on Finance and Foreign Relations and budgetary aggregates in connection with H.R. 3450, the North American Free-Trade Agreement Implementation Act.

Section 9(g) of the budget resolution states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.

* * * * *

(g) TRADE-RELATED LEGISLATION.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for legislation to implement the North American Free Trade Agreement and any other trade-related legislation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1994; and

(B) the period of fiscal years 1994 through 1998.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report of such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

The Committees on Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Finance; Foreign Relations; Governmental Affairs; and Judiciary have reported H.R. 3450, the North American Free-Trade Agreement Implementation Act, without amendment. Within the meaning of section 9(g) of the budget resolution, H.R. 3450 constitutes "legislation to implement the North American Free-Trade Agreement."

H.R. 3450 also meets the other requirement of section 9(g) of the budget resolution that—

the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1994; and

(B) the period of fiscal years 1994 through 1998.

As H.R. 3450 complies with the conditions set forth in the budget resolution, under the authority of section 9(g)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

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

RESERVE FUND FILING PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1994

[In millions of dollars]

	1994	1994–98
AGGREGATE REVENUES		
Current revenue ceiling	905,500	5,153,400
Surplus spending cuts from H.R. 3450	(151)	(278)
Revised revenue ceiling	905,349	5,153,122
AGGREGATE SPENDING		
Current spending allocations:		
Budget authority	1,223,400	
Outlays	1,218,300	
Surplus spending cuts from H.R. 3450:		
Budget authority	(151)	
Outlays	(151)	
Revised spending allocations:		
Budget authority	1,223,249	
Outlays	1,218,149	
FOREIGN RELATIONS COMMITTEE ALLOCATIONS		
Current Foreign Relations Committee allocations:		
Budget authority	13,716	61,506
Outlays	14,161	65,188
Surplus spending cuts from H.R. 3450:		
Budget authority	0	56
Outlays	0	56
Revised Foreign Relations Committee allocations:		
Budget authority	13,716	61,562
Outlays	14,161	65,244
FINANCE COMMITTEE ALLOCATIONS		
Current Finance Committee allocations:		
Budget authority	529,934	3,064,919
Outlays	527,947	3,053,795
Surplus spending cuts from H.R. 3450:		
Budget authority	(151)	(334)
Outlays	(151)	(334)
Revised Foreign Relations Committee allocations:		
Budget authority	529,783	3,064,585
Outlays	527,796	3,053,461•

CONNECTICUT PERMANENT COMMISSION ON THE STATUS OF WOMEN

• Mr. LIEBERMAN. Mr. President, I rise today to recognize the achievements of Connecticut's Permanent Commission on the Status of Women, which today is celebrating 20 years of accomplishment in the struggle toward equality for women.

The Permanent Commission on the Status of Women, which was created by the State legislature to work to eliminate sex discrimination in Connecticut, has for two decades provided assistance, information, and advocacy on behalf of Connecticut women. Their work has resulted in many important legislative changes needed to gender neutralize existing State laws. Their current efforts also focus on working to ensure equality for Connecticut women in employment, housing, credit, education, and other areas.

In its 20 years of existence, this commission has worked to increase public awareness, assisted individuals who believe they have been the victim of sex discrimination, provided invaluable information about legislation that affects women, produced publications and information services for women, and provided a myriad of additional services and programs to fight injustice and assure that women are treated equitably under the law and in the workplace.

I congratulate the past and current members and staff of the Permanent Commission on the Status of Women. I applaud their achievements, and I am sure that the men and women of Connecticut will benefit greatly as they continue their critically important work.•

THE FREE LIBRARY OF PHILADELPHIA

• Mr. WOFFORD. Mr. President, today marks the 20th year of incorporation for the Free Library of Philadelphia. I ask my colleagues to join me in honoring the Friends of the Free Library for their commitment to preserving and expanding library services throughout the city of Philadelphia.

Philadelphia has a long and proud tradition of support for its public libraries. In 1731, Benjamin Franklin and his colleagues founded the first subscription library in America, the Library Company of Philadelphia. Over a century later, with Franklin's original idea in mind, the Free Library of Philadelphia was founded. Today, the Free Library of Philadelphia has over 3 million volumes and serves the needs of thousands of citizens each year.

During the 1960's, the Friends of the Free Library of Philadelphia formed as a citizens support group of the Free Library. After incorporation, the Friends of the Free Library worked to increase and improve the services of the library and to better inform citizens of the resources of the Free Library of Philadelphia—sponsoring cultural events; enlarging public support, understanding, and use of the library; and encouraging financial support. The Friends of the Free Library has since flourished as ardent supporters of a strong and vibrant citywide public library system.

The Friends of the Free Library fosters programs aimed at eradicating illiteracy in the community. The Friends of the Free Library administrates the Read Together Coalition, an organization comprised of 17 Delaware Valley organizations, institutions, and agencies concerned with literacy and education. Since its inception in 1985, the coalition has made a real difference in the lives of children and adults who have not acquired reading skills. The coalition strives to emphasize the importance of family literacy. Each February, the coalition's Love Is Reading Together Week, promotes adults and children reading together. The Friends of the Free Library have also donated dictionaries to needy students, and have awarded books to Vacation Reading Club participants. In addition, they sponsor the Young Library Leaders Program.

The Free Library of Philadelphia has grown and evolved to meet the changing needs of the community. Whether it is by expanding adult literacy, providing safe havens for children after school or improving services for senior citizens, our libraries have proved ready and able to adapt to the changing needs of those whom they serve. The Free Library now has specialized services for children, young adults, adults, and special groups, such as the blind, senior citizens, teachers, and various community groups. And its branch libraries enable more people to conveniently use its services.

The Friends of the Free Library is built on the premise that the library is the heart of the community. The growth of the Friends of the Free Library membership and of their programs reflect the dedication, enthusiasm, creativity, resourcefulness, and generosity of a diverse group of people from all walks of life. The breadth and depth of the friends' achievements provide an exemplary model for committed citizens nationwide and a firm foundation for future endeavors.

Mr. President, libraries enable us each to enrich our lives and expand our horizons. The Free Library of Philadelphia helps people, especially children, to learn the jobs of reading and the power of knowledge. I commend the Friends of the Free Library of Philadelphia for all they have done to strengthen the role of the library in the community. With their continued efforts, I know that the Free Library will continue to thrive into the next century.•

TRIBUTE TO JOAN THOMPSON NEUHAUS

• Mr. WARNER. Mr. President, last week during Veterans Day, I had the honor of joining the Vice President and several of my colleagues in dedicating the Vietnam Women's Memorial, a moving and long-overdue tribute to Americans in uniform who had been denied that honor—the women. Few would dispute that the efforts of women in uniform continue to be invaluable to our military missions in peace and in war.

Today, I would like to ask my colleagues to join with me in commending and congratulating a young woman who is continuing that fine tradition.

My good friend, Joan Thompson Neuhaus, a fifth generation native of Houston, TX, has devoted much of her life to assisting others, understanding the world around her, and promoting communications among diverse groups. I recently learned that, on September 16, in her native Houston, Ms. Neuhaus was honored by being commissioned in the U.S. Naval Reserve. As Ms. Neuhaus has stated, "I have been blessed with attributes and talents, as well as an obligation to put those gifts to the best use." She has chosen to execute that obligation in the service of her country.

I know that my colleagues will join with me in congratulating Joan Thompson Neuhaus upon her commission, and in extending every best wish for a fulfilling and rewarding naval career.•

BIPARTISAN BUDGET-CUTTING PACKAGE

• Mr. KERREY. Mr. President, last week several of my colleagues, including Senators BROWN, GRAHAM, GREGG, LIEBERMAN, and ROBB, joined me in proposing to cut $109 billion from federal spending over the next 5 years.

The arguments for making spending cuts are familiar. They have echoed through this chamber many times and have made their way into speeches and press releases in every state across the country.

Today it is time to take the argument a step further. Today, Mr. President, talk is not enough. The economy is suffering under the weight of massive federal borrowing, and we will not get it back on track until we do something to rein in the federal budget. The American people have demanded deep and serious and measurable cuts in the Federal budget and I suspect they are more interested in dollars and cents than in promises and parlance.

The Senate bipartisan budget-cutting plan we propose is designed to help revive the economy and meet those demands with $109 billion in specific, itemized cuts in the federal budget. Its authors are dead serious about making these cuts, Mr. President. We want the measure of our success to be the bottom line, not the headline.

These cuts are tough and serious and so, Mr. President, is the fiscal crisis they are designed to confront.

That crisis is no secret. New government borrowing artificially inflates interest rates and now consumes fully three out of every $4 in national savings—savings that would be used to create jobs and invest in the economy were they not being gobbled up by the Government.

This fiscal crisis is like an iron ball chained to the leg of the economy, which limps along carrying the weight of more than a decade of rampant deficit spending.

There is another crisis parallel to that in our finances: a crisis of public confidence. The American people have seen our promises to cut spending and heard our speeches about fiscal responsibility and yet they look to Washington and still see a city that borrows hundreds of millions of dollars against their children's credit every day. They see a city that pats itself on the back for passing a budget which still allows the Government to borrow hundreds of billions of dollars a year, which sounds like pocket change in Washington but is real money everywhere else. They are suffering under an economy that cannot grow sufficiently because the Federal Government is borrowing too

much money. The result, Mr. President, is that many Americans simply no longer believe that their Government has the backbone to face up to the challenges that confront the Nation.

The bipartisan budget-cutting plan gives us an opportunity to make headway toward solving both of these crises. Doing so will require the courage to do what is right, the confidence to do it in a bipartisan fashion and the conviction to get the job done.

Let me outline some of the important features of this plan. It begins with the premise that we should not ask the American people to accept spending cuts unless we are first willing to make sacrifices ourselves. So we propose to cut legislative branch appropriations by 7.5 percent, the congressional franking budget by 20 percent and appropriations to the executive branch by 5 percent. These cuts amount to $675 million in savings.

This proposal delineates $5.9 billion in savings from consolidating and streamlining federal agencies by implementing proposals in the Vice President's National Performance Review, as well as other proposals.

There are billions of dollars in other cuts in this package that strike or scale back various programs and projects, some of which have outlived their usefulness and others of which are items which are defensible but which we can no longer afford.

But we also ask, as we must, that many Americans who are the recipients of some Federal spending sacrifice to get our finances back on track. Where we must make such cuts we have endeavored to make them as fair as possible.

We ask retirees who make more than $50,000 a year to pay more of their Medicare part B premiums. This provision saves $16.3 billion.

We ask Government retirees to accept limits in their cost-of-living allowances, saving $4 billion.

There are many other sacrifices we ask. In fact, Mr. President, we propose to cut in this package more from entitlement programs than from discretionary spending.

Many will say that such proposals are the kiss of death in our business. They may be right. Perhaps this explains why we have shrunk from such propositions before. But perhaps that explains why our national debt has been raging out of control for so long.

Make no mistake, Mr. President. These cuts are real and because they are real they will require sacrifice. We must accept the fact that every dollar cut from the federal budget causes discomfort for the person or program accustomed to receiving that dollar on the other end. Anyone who doubts this fact need only travel to Charleston, SC, or any other community affected by spending cuts.

But we must also confront the fact that rampant deficit spending is causing more pain for more people than cutting the Federal budget ever will.

Mr. President, I do not pretend that the spending cuts we are proposing are a cure-all, or that they are the end-all-be-all of deficit reduction. Indeed, such an outcome would be a failure. These cuts are only a step, a step that must be followed with real and decisive action to reduce the deficit further.

We took the first step with a tough vote on August 6 that produced a budget which, though it was not perfect, will reduce the deficit by nearly $500 billion over five years. We took that step because the President of the United States—however controversial his plan may have been—brought the issue of deficit reduction to the national table and forced the Congress to act on it.

I hope the second step will be passage intact of the bipartisan plan we are proposing.

The next step, and the one with more important consequences, will be mass reform of the nation's entitlement system. I look forward to helping craft that reform through the Kerrey-Danforth Commission, which I am chairing with my friend from Missouri.

Any discussion of the amendment we plan to introduce would be incomplete without mention of the process which brought it about. It began in August when I first discussed a new package of spending cuts with colleagues in the Senate and the other body. Many of the fruits of those discussions are in a rescission package in the other body, and I hope they meet with great success.

The dozens of hours over which we drafted our amendment also prove to me that we can act in bipartisan fashion when the needs of the country demand it. The colleagues with whom I have had the honor to work consistently put their country above their careers and their patriotism over their parties, and it was a pleasure to work with them.

Now I look forward to consideration of this amendment by the full Senate. I suspect we will learn a great deal in the process. Because the cuts we propose are real and bipartisan they force the Senate to stop talking about spending cuts and start voting on them. We believe the game of praising spending cuts in general but rejecting them in particular is up.

We did not provide much political cover in this package, Mr. President. We did not leave ourselves room to go home and brag to our constituents, as is too often customary, that we cut everyone's spending but their own.

What we did do was leave ourselves and our colleagues room to tell our constituents that we have heard their demands for spending cuts, that we intend to meet them and that doing so will require shared sacrifice.

If we pass these cuts we will take a step toward reducing the size of the Federal Government and renewing the American people's confidence in their Government. It is neither a tiny step nor a titanic one, but it is a real step that can be measured in real dollars and real cents.

If we succeed in taking it, the result will be $109 billion in spending cuts. The payoff will be more jobs, better wages and economic growth for the American people, who in turn will hold renewed confidence that their Government can face up to tough choices.

But if we let this opportunity pass us by, the consequences will be continued cynicism on the part of the American people and an economy mired in the same old stuff.

The choice is not at the mercy of political winds beyond our control, Mr. President. The choice is ours. With courage, confidence and conviction, we can make the right one. The economy needs it, Mr. President, and posterity demands it.●

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

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

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the disposition of S. 1607, the Senate turn to the consideration of Calendar No. 21, S. 414, a bill to require a waiting period before the purchase of a handgun; that there be a time limitation of 2 hours for debate on the bill; that immediately upon the reporting of the bill the majority leader be recognized to offer a substitute amendment on behalf of himself and Senator DOLE; that upon the reporting of the amendment, the majority leader be recognized to offer an amendment striking the preemption language to be considered under a 1 hour time limitation; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Mitchell preemption amendment; that upon the disposition of that amendment, Senator METZENBAUM, or his designee, be recognized to offer an amendment relative to sunsetting, to be considered under a 1 hour time limitation; that at the conclusion or yielding back of the time on that amendment the Senate, without any intervening action or debate, vote on the sunsetting amendment; that if either the preemption or the sunsetting amendment is agreed to, then upon the disposition of the sunsetting amendment, there be 30

minutes for debate prior to a vote on a motion to invoke cloture on the Mitchell-Dole substitute amendment, as amended; that if cloture is invoked, the Mitchell-Dole substitute amendment be agreed to, the Senate proceed to third reading of S. 414; the Senate then proceed to the consideration of the House companion, H.R. 1025, that all after the enacting clause be stricken and the text of S. 414, as amended, be inserted in lieu thereof, and the Senate vote on passage of the bill; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees, with the preceding all occurring without any intervening action or debate; that if both the preemption and sunsetting amendments lose, then the Mitchell-Dole substitute amendment be agreed to, the bill be read a third time, and the House bill be voted on under the same conditions as outlined above; that if the cloture vote on the Mitchell-Dole substitute amendment is not successful, then a second cloture vote occur thereon at 11 p.m. on Friday, November 19; that all times in this agreement be equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, with the required quorums under rule XXII being waived; that the Senate now resume consideration of S. 1607; that there be 10 minutes for debate remaining on the bill equally divided between Senators BIDEN and HATCH; that at the conclusion or yielding back of time this evening, the bill be read a third time and the Senate vote on passage of H.R. 3355 in accordance with all of the provisions of the previous agreement at 9:45 a.m. on Friday, November 19.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I shall not object, but I might be a little confused.

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

The text of the agreement follows:

Ordered, That upon the disposition of S. 1607, the Crime Bill, the Senate turn to the consideration of S. 414, a bill to require a waiting period before the purchase of a handgun, and that there be a time limitation of two hours for debate on the bill.

Ordered further, That immediately upon the reporting of the bill, the Majority Leader be recognized to offer a substitute amendment on behalf of himself and the Senator from Kansas [Mr. DOLE]; that upon the reporting of the amendment the Majority Leader be recognized to offer an amendment striking the preemption language, to be considered under a one hour time limitation; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Mitchell preemption amendment; that upon the disposition of that amendment, the Senator from Ohio [Mr. METZENBAUM], or his designee, be recognized to offer an amendment relative to sunsetting, to be considered under a one hour time limitation; and that at the conclusion or yielding back of time on that amendment, the Senate without any intervening action or debate, vote on the sunsetting amendment.

Ordered further, That if either the preemption or the sunsetting amendment is agreed to, then upon the disposition of the sunsetting amendment, there be 30 minutes for debate prior to a vote on a motion to invoke cloture on the Mitchell-Dole substitute amendment, as amended.

Ordered further, That if cloture is invoked, the Mitchell-Dole substitute amendment be agreed to; the Senate proceed to third reading of S. 414; the Senate then proceed to the consideration of the House companion, H.R. 1025; that all after the enacting clause be stricken and the text of S. 414, as amended, be inserted in lieu thereof; that the Senate vote on passage of the bill; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

Ordered further, That the preceding all occur without any intervening action or debate.

Ordered further, That if both the preemption and sunsetting amendments lose, then the Mitchell-Dole substitute amendment be agreed to, that the bill be read a third time, and that the House bill be voted on under the same conditions as outlined above.

Ordered further, That if the cloture vote on the Mitchell-Dole substitute amendment is not successful, then a second cloture vote thereon occur at 11:00 p.m. on Friday, November 19, 1993.

Ordered further, That all times in this agreement be equally divided between the Chairman and the Ranking Member of the Judiciary Committee, or their designees, with the required quorums under Rule 22 being waived.

Mr. MITCHELL. Mr. President, and members of the Senate, under this agreement, the Senate will now resume consideration of the crime bill. There will be 10 minutes of debate remaining on that bill, at which time the bill will proceed to third reading this evening.

The vote on final passage of the crime bill will occur at 9:45 a.m.—actually I said this evening. It is this morning. It will occur at 9:45 a.m. this morning. Following that vote—and therefore, at approximately 10:05 a.m. this morning the Senate will proceed to consideration of S. 414, the handgun waiting period bill.

Pursuant to this agreement, there will be 2 hours on the bill. There will be a substitute amendment offered by myself and Senator DOLE under the following circumstances: We have reached agreement on a substitute amendment with respect to all matters except two. Those two matters involve the preemption of State laws by the passage of a Federal law, and the sunsetting or automatic termination of the waiting period.

What we have agreed to do is to include those two provisions in the substitute even though I do not agree with those provisions. However, I have agreed to include them in the substitute for purposes of creating a mechanism for getting this matter before the Senate and disposing of it.

After that substitute is presented, I will then offer an amendment to strike the preemption provision from the substitute. Following a vote on that, Senator METZENBAUM will offer an amendment to strike the sunsetting provision from the substitute, and there will be 1 hour for debate on each of those amendments so we will be able to explain our respective positions on the substance of those matters tomorrow morning.

Then, if both of those efforts to strike fail, we will simply adopt the bill, the substitute including those two provisions.

Mr. DOLE. Excluding those two provisions.

Mr. MITCHELL. No, including. They are in the substitute. If we fail to strike them, they will stay in the substitute.

Mr. DOLE. Excuse me.

Mr. MITCHELL. And the bill will be passed including those two provisions. If we succeed in striking either or both of those provisions, then our colleagues have notified us that they would not permit the bill to proceed and would in fact use the rules of the Senate to prevent a vote on it, which requires us then to file a motion to invoke cloture to end debate so as to bring it to a conclusion.

Under the rules of the Senate, it would ordinarily take a 2-day period before we would have a vote on cloture, and then if we filed a second cloture petition, as I have stated would be our intention, that would follow the day after. However, because we are near the end of the session, we have agreed as part of this procedure to have the first cloture vote 30 minutes after we reach that point and then have the second cloture vote at 11 p.m. tomorrow evening.

Between those two—let me back up. If, on the first cloture vote, cloture is obtained, then we will pass the bill. If cloture is not obtained, it is my intention that we would then return to debate on the North American Free-Trade Agreement, and then have the second cloture vote at 11 p.m. We did not cover in here a brief period for debate prior to that second cloture vote, but I assume that is something we can agree on at that time.

I believe that I have stated this accurately, but I want to invite the Republican leader to indicate if there is any disagreement in the manner in which I have interpreted the agreement.

Mr. DOLE. Mr. President, I think the majority leader has properly interpreted it.

I want to commend our staff and others who have been working on this for 2 days. It has been a very difficult process. It seems to me it is fairly contrived and put together, and everybody will have an opportunity, and hopefully we can have it all resolved by some time tomorrow.

I assume it is the majority leader's intention to vote on the North American Free-Trade Agreement either before or after the second cloture vote.

Mr. MITCHELL. I have not made a decision on that. I will, as always, consult with the distinguished Republican leader. I think it will depend in part upon how much time has been used between the two cloture votes and how much time is remaining, whether or not any disposition on the part of Senators to yield back time or to want to use that time. I think we will know better through the day tomorrow.

As the Republican leader knows, there is at least one additional outstanding matter that we have not been able to resolve unrelated to these bills. We have one bill and two nominations.

It may therefore be necessary to return on Saturday to complete action on those. And, in that event, that may influence our judgment with respect to when we complete action. We will work on those tomorrow. My hope is that we can reach some agreement on that procedure during the day tomorrow and be in a position to make a better judgment sometime later in the day tomorrow.

Mr. DOLE. I am advised by the Parliamentarian that we have, I think, on this side 4 hours and 43 minutes in opposition, and a couple of hours in support of NAFTA. We have the bulk of the time. It may be necessary to yield some of that to the other side. But I do not believe that we will consume much over maybe, hopefully, a couple of hours, 2½ hours, on this side on the North American Free-Trade Agreement. It is a hope.

Mr. MITCHELL. Is the Senator calculating in that time the distinguished Senator from Alaska has indicated that he intends to utilize——

Mr. DOLE. I never totally calculate. But I have considered it.

Mr. MITCHELL. I want to thank all my colleagues. I am not going to try to name them because there have been so many involved in this discussion.

As the Republican leader said, the staff worked on this, now I think it has been closer to 3 days that we have been negotiating this. But I think special mention has to be made for the chairman of the Judiciary Committee, who is the one person I think we can safely say that without whom this would not have been possible, who has been as always extremely helpful and valuable in helping us put this together.

Therefore, Mr. President, I thank my colleagues for their cooperation.

I yield the floor.

The PRESIDING OFFICER. Is there further discussion?

Mr. BIDEN. Mr. President, as I understand it, under the unanimous consent agreement on the crime bill, that if we are able to return to the crime bill now that——

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The PRESIDING OFFICER. The Senator is correct. Under the agreement we just reached, we will return to S. 1607, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate continued with the consideration of the bill.

HATCH AMENDMENT NO. 1217, AND BIDEN AMENDMENT NO. 1216

Mr. BIDEN. Mr. President, under the unanimous-consent agreement, it was agreed that the managers and the majority and minority leader would agree on a so-called "managers' package" of amendments that we could accept.

I am prepared now to send to the desk a list of 21 Democratic amendments that have been accepted on both sides. I believe the distinguished Republican leader is prepared to send up a number of amendments. I beg your pardon. There are 26 plus 11 technical amendments in that batch that are sent up, plus, I believe, the Republican leader has Republican amendments agreed to as well.

The PRESIDING OFFICER. Is there objection on the part of the Republican leader?

Mr. DOLE. Let me send up on behalf of Senator HATCH a series of 20 amendments along with statements. I ask unanimous consent that the statements be printed in the RECORD at the appropriate place.

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

Mr. DOLE. I also send up a list of the amendments. It might be helpful to the clerks.

The PRESIDING OFFICER. Without objection, the amendments will be received and agreed to—both packages.

Mr. BIDEN. Mr. President, I also ask unanimous consent—I failed to do so—that all statements relating to each of the amendments be entered in the RECORD as well.

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

(The text of the amendments are printed in today's RECORD under "Amendments Submitted".)

ALTERNATIVE INCARCERATION

Mr. PELL. Mr. President, under Title VIII and Title XII of this bill, money would be made available to states for the operation of boot camp programs for nonviolent offenders. In general, the funding of these boot camp programs serves twin purposes of alternative and less costly punishment of convicted criminals.

The Family Court of Rhode Island, under the direction of Chief Judge Jeremiah S. Jeremiah, Jr., has developed through a collaborative effort with other public and private agencies in Rhode Island an innovative program, called JOIN, for the alternative incarceration and punishment of juvenile offenders. Similar to the goals of the boot camp prison, this program focuses on using the successes of the Outward Bound Program as a base while adding the involvement of police and social service agencies, to create a comprehensive alternative to incarceration which focuses on rehabilitation, self-esteem, and community integration while maintaining the goal of cost-effectiveness when compared to current means of incarceration.

It is unclear whether this program could be called a "boot camp" program under the current language and understandings of this bill. I would like the Chairman to clarify that point and to indicate whether or not the State of Rhode Island or any local jurisdiction receiving funds under this title could, at its discretion, choose to use such funds to fund this type of alternative incarceration.

Mr. BIDEN. The goals of Title VIII and Title XII of this bill are clearly in concert with the goals of the JOIN program which has been proposed in Rhode Island. If the State of Rhode Island or any other local jurisdiction chooses to allocate any funds that it may receive under this title for this or any other substantially similar program which combines the rigors of a boot camp-like training program, such as Outward Bound, and follows it up with post-release supervision, then it would not be in violation of the intent or spirit of this provision.

Mr. PELL. I thank the chairman for this clarification. It is clear from this exchange then that if the local officials coordinating the JOIN program wished to seek funds made available by this legislation for their project, they would do so from state and local authorities upon their receipt of such funds.

Mr. BIDEN. That is correct.

Mr. PELL. I thank the Senator for this exchange and for all your good work to advance alternative programs for the detention, punishment, and rehabilitation of juvenile offenders.

Mr. BINGAMAN. Mr. President, I rise today to commend the Chairman of the Senate Committee on the Judiciary, Senator BIDEN, and the distinguished

Senator from Utah, Senator HATCH, for their leadership on the comprehensive crime control legislation that is before the Senate today.

During the past several days of debate on the crime bill, many of my colleagues have come to the Senate floor to discuss the epidemic of violence that is plaguing our nation and killing our children. A number of amendments have been proposed to address this very serious problem and make our streets, homes, and schools safer.

I am pleased that the managers of the bill have agreed to accept an amendment I authored aimed at preventing youth violence and crime by imposing an immediate penalty on teens who bring handguns to school.

This amendment, unlike those offered by many of colleagues, does not involve the criminal justice system or require a lengthy and expensive prosecution. It will not toughen prison sentences or increase jail space. Instead, my amendment attempts to prevent violence by posing a penalty that is so immediate and so real it will deter handgun-related crime among our nation's youth.

This amendment contains incentives for states to impose an immediate penalty—the instantaneous revocation of a drivers license—on anyone who brings a handgun to an elementary or secondary school.

In my homestate of New Mexico, where violent teen deaths rank worst in the Nation, we need to do everything we can to discourage teens from carrying handguns and other weapons. This immediate penalty may be our most effective tool for keeping many children and teens safe from handguns. After all, the one thing teenagers want from government is a license to drive.

To my colleagues who say this penalty is not enough, I say that I know very well this measure is not the total solution to the very serious problem we face. To teenagers who are immersed in a life of crime, this additional penalty will mean little.

We need the tough prison sentences and strong penalties contained in Senator KOHL's "Youth Handgun Safety Act," which I am pleased to cosponsor.

We also need to give our children productive, life-enriching alternatives to crime. We need to support our schools as outlined in Senator DODD's "Safe School Act," which I am also proud to cosponsor. But I believe we can—and must—do more.

It is simply unrealistic to think that the criminal justice system can solve all the problems of crime in America. Our prisons are overcrowded, our courts are backlogged, and our police are overworked. Too few teens today respect law enforcement and the criminal justice system. Even fewer fear the penalties of the criminal justice system. Instead, they fear their classmates who come to school with loaded handguns in their backpacks and tucked into their pants.

Their fear is well-founded: before this day ends, 14 children will die in suicides, homicide, or accidental shootings. Between 90,000 and 135,000 guns will be brought into our Nation's schools today. These statistics are almost beyond belief to people who were in high school 15, 20, or 30 years ago. But if you doubt them, ask any teenager in school today.

Ask a teen for his or her impression of the Federal law establishing "gun-free school zones," which rely entirely on the criminal justice system for enforcement and punishment. It will be a sobering conversation. As members of the Florida State Legislature, who met last week during a special session to discuss youth violence and voted to suspend the drivers license of a teen caught with a gun. The suspension is part of a package of penalties, which also includes 100 hours of mandatory community service, to be assessed for violations of the State's new law banning minors from possessing guns.

Mr. President, as a Nation, we simply need to admit that violence—particularly gun-related violence—is more than our criminal justice system can handle. On November 1, the Surgeon General of the U.S. Public Health Service, Dr. Joycelyn Elders, discussed the extent of the problem during testimony before the House Committee on Government Operations.

Dr. Elders stated that since the 1950's, suicide rates among our youth have almost quadrupled. She reported that homicide rates among young men are 20 times as high as most other industrialized countries and 40 times higher in young African American males. According to the Department of Justice, the 50,000 juvenile weapons arrests in 1991 accounted for more than one in five weapons arrests. The Department also reports that 16,000 violent acts occur in our nation's schools every day.

As I stated earlier, these tragic statistics are hard to believe; but, unfortunately, they are all too familiar in my home State of New Mexico. New Mexico ranks worst in the country in violent teen deaths, with 121 deaths per 100,000 compared to the national average of 71 deaths per 100,000. More than twice as many New Mexico youth between 15 and 25 commit suicide than the national average.

It is as clear in my mind as it is in Dr. Elder's statement: The criminal justice approach simply is not enough. The criminal justice system comes too late for too many teenagers. The criminal justice system treats the problem after it occurs. We must, as Dr. Elders says, couple prevention with our criminal justice system of treatment.

Prevention is the cornerstone of this amendment. It will encourage states to enact laws that: require the revocation of an individual's drivers license if he or she brings a handgun into an elementary or secondary school zone; and stipulate for an individual under the state's legal driving age, that the period of revocation will be 5 years or until the age of 18, whichever is longer.

As I mentioned earlier, this revocation would be in addition to—not a substitute for—any other applicable penalties under state or federal law.

The revocation would be 5 years for the first offense, 10 years thereafter, upon notification by the school's principal to the State. Although we would, of course, expect the states to follow such procedures as may be required under the Constitution. Finally, the State would have the option of waiving a portion of the penalty if it is satisfied that a compelling reason exists for doing so and the individual has not been involved with the criminal justice system after the initial weapon possession.

To encourage states to adopt this law, the amendment states that the Administrator of the Office of Juvenile Justice and Delinquency Prevention may award a State a bonus grant for if the State has adopted an instant license revocation law.

That is the extent of my amendment. It is simple and straightforward. It focuses on a penalty that is very real to most of our youth. All kids, at one point or another, anticipate the day they will get their drivers license. To them, five years without a license is forever; but criminal penalties are often little more than a far-off maze of courts, delays, and loopholes.

Mr. President, we citizens have allowed this country to become a crying shame. It will only get worse if we do not use every tool available to us to restore values, control crime, and reduce violence. We need to do everything we can to discourage our children from choosing crime as a way of life.

We need to help our teachers, principals, and school counselors make schools a safer place in which to learn and grow. We need to be better parents and better role models for our children. In short, we need to help our children find the desire and courage to fulfill the potential that lives within each one of them.

I believe this amendment is one of the tools we need to accomplish these objectives. I had intended that this amendment include stronger incentives to states, but I understand the Chairman of the Committee had objections, and we have compromised. Nonetheless and despite our disagreement on some sections of this amendment and other sections of the underlying bill, I am pleased my colleagues have agreed to include this amendment in the Violent Crime Control and Law Enforcement Act of 1993.

Mr. REID. Mr. President, I am pleased to join as a sponsor with Senator BRYAN of this criminal alien

amendment. As my colleagues know, I have spoken a number of times in recent weeks concerning the urgent need to reform our nation's immigrant policies. More importantly, I have introduced S. 1351, the Immigration Stabilization Act, which is a comprehensive bill to overhaul these outdated laws. Criminal aliens are an important aspect of the immigration crisis our nation is experiencing, and title IV of S. 1351 contains criminal alien reform provisions that embody the same basic concepts that are in this amendment, including: expanding the definition of an "aggravated felony"; streamlining the deportation and review procedures for aliens convicted of such felonies; allowing judges to issue deportation orders at sentencing hearings; restricting defenses to deportation for criminal aliens; and enhancing penalties for failing to depart or for reentering after final orders of deportation.

No one who serves in the Senate needs to be reminded that the people of this country are clamoring for something to be done about the plague of violent crime throughout our nation. No one who serves in Congress needs to be reminded that there is not nearly enough money for more police, more judges, more prisons and for all the other important social service and infrastructure needs facing our Nation—not at the federal level, not at the state level and not at the local level.

Yet, in spite of pandemic crime and increasingly limited resources to deal with it and other problems, we find that nearly a quarter of all the people in Federal prisons today are aliens. In places like California and Texas the figure approaches 50 percent. In New York, Governor Cuomo has estimated that incarcerating illegal aliens who have been convicted of felonies costs his cast-strapped state more than $65 million a year. Other states face similar high costs. The statistics are simply shocking. There can only be outrage that such conditions have been tolerated for as long as they have.

Some of the issues in the pending crime bill are ones about which reasonable people can disagree. However, criminal aliens are a large and growing problem for our country, and there should be no disagreement that Congress must act now to address this serious problem. These criminals, many of whom are illegally in the country to begin with, are responsible for inflicting unquantifiable pain and terror on law-abiding citizens. They cause countless millions of dollars in property loss and damage and countless millions more in legal and incarceration costs. But these outrages pale by comparison to one simple fact: our government has done virtually nothing to remove these people from our society. We have outdated and faulty procedures that alien criminals and their lawyers exploit with ease. We routinely release deportable aliens who have committed heinous crimes, back onto the streets of our nation's cities.

Mr. President, there is no excuse for failing to deport people who not only don't belong here, but who have demonstrated by their actions that they are a threat to public safety. We hold individuals and corporations responsible for failing to take reasonable precautions to protect public safety. Yet, the Federal Government has been grossly negligent in the way it deals with criminal aliens. Not only do we fail to keep such people out in the first place because we don't control our borders, but we often don't even kick these criminals out even after they have served jail terms for committing egregious felonies. The American people have every reason to be angry that the criminal alien who gets deported promptly is the exception, not the rule.

The amendment would make significant reforms in this outrageous practice of releasing criminal aliens back into American society. It would help ensure that there will be swift and irrevocable deportation immediately upon completion of their jail terms. No undue delays or appeals or special legal pleadings would be allowed to tie up the deportation process. Therefore, I strongly urge my colleagues to support this amendment. I also invite other Senators to join in the fight for comprehensive reform of our outdated immigration laws by becoming cosponsors of S. 1351, the Immigration Stabilization Act.

Mr. BRYAN. Mr. President, U.S. immigration policies and enforcement of those policies are not longer working in the best interests of our country.

Congress should make comprehensive reform of immigration laws a top priority for next year.

There is a role our country must play in allowing a reasonable level of immigration.

However, we must face the fact that problems associated with immigration, especially illegal immigration and political asylum, are out of control.

Today, I am asking the Senate to approve two immigration amendments which Senators BIDEN and HATCH have agreed to accept as part of their manager's amendment.

The first amendment I put together with Senator SIMPSON and others.

I thank Senator SIMPSON and his staff for their immense help.

I also thank the Clinton administration for their assistance and contributions.

The first amendment has two major components which hopefully will close loopholes in immigration laws:

(1) Procedures to speed up the deportation of criminal aliens convicted of aggravated felonies by combining their deportation hearing into their sentencing hearing.

Instead of first releasing the alien from prison and later holding a separate hearing as is being done now, often months or even a year or more later, those who break U.S. laws could be deported immediately after serving their prison sentence.

(2) Elimination of the granting of automatic work authorization permits to those who enter the United States and apply for political asylum.

Under the expedited deportation procedure, we are reforming and toughening the process under which convicted criminal aliens are deported back to their country of origin after serving their prison sentence.

Under current immigration law, an alien who has been convicted of an aggravated felony, is presumed to be deportable from the United States.

This means that in virtually every case, once an alien is convicted of an aggravated felony, a very serious crime, and the alien has served his or her prison time, they should be deported.

This is not happening.

The law envisions that a deportation hearing will be held while the alien is still in prison, and a judge will rule on deportation.

Instead, the system is so bogged down, no hearing is held while the alien is serving prison time, and the criminal alien is released to INS.

The INS is forced to again detain the already convicted alien at taxpayer expense until the system clears for a hearing to be scheduled.

Why is a separate deportation proceeding needed? Due Process? The alien received due process at the time he or she was sentenced for the aggravated felony.

A second hearing can be avoided by combining the deportation hearing with the alien sentencing.

A Federal judge can enter a final order of deportation at the same time the judge sentences the alien for committing an aggravated felony.

It currently costs the taxpayer an average of $60 to $70 per day to simply house convicted alien felons pending deportation, after completion of their prison sentence.

Not to mention the cost of the immigration judges, court staff, attorneys, interpreters, and facilities necessary to institute the deportation proceedings.

Such a system must come to an end.

Of the 36,000 aliens that were deported last year, 18,000 of those were criminal aliens.

There are 16,000 criminal aliens currently in our Federal prisons at taxpayer expense, and 41,000 criminal aliens in our State prisons.

Immigrating to America and joining our society is a privilege, not a right, and Congress should say clearly that if an alien is convicted of a felony, the alien forfeits that privilege and will be deported immediately upon completion of the prison sentence.

A few weeks ago, Attorney General Janet Reno was quoted as saying the

Federal Government should take more responsibility for deporting illegal aliens held in State prisons.

Under this amendment, the Attorney General can use an expedited process to speed up deportation of criminal aliens serving time in State and Federal prisons.

Also under my first amendment is the elimination of the granting of automatic work authorization permits to those who enter the United States and apply for political asylum.

Last year there were 150,000 asylum applicants who under current law get automatic work authorization permits before their asylum application hearings, regardless of the merit of their claim for asylum.

Under our amendment, a political asylum applicant can only obtain work permits by authorization of the Attorney General.

I will also ask that report language indicate that it is understood that such authorization will be the exception rather than the rule, and that permission to work only be granted in the most urgent of circumstances.

My second amendment, also accepted as part of the manager's amendment, permits law enforcement authorities access to immigration records to obtain information necessary to locate and identify an alien for criminal law enforcement purposes.

In the recent case of Mir Aimal Kanzi, the man responsible for the tragic walk-by shootings outside the CIA facility here in the Washington area, law enforcement authorities were unable to access Mr. Kanzi's naturalization file.

A provision in the 1986 Immigration Reform and Control Act requires strict confidentiality with respect to which persons and authorities can access an alien's application.

The law says a fine and or prison sentence will be imposed upon anyone, including the Attorney General, who releases information from legalization files for purposes other than processing an application.

Surely any privacy concerns that led to the passage of a provision such as this did not mean to preclude access to a file for purposes of apprehending a known terrorist.

An argument could be made that the denial of immediate access to this vital information contributed to Mr. Kanzi's escape from the United States.

Authorities were able to eventually access some information pertaining to Mr. Kanzi from a separate asylum application that he had filed, however one that was not required to contain a photo as was the file under the Immigration and Naturalization Act.

My amendment would allow the Attorney General or designee to give law enforcement authorities the ability to apply to a Federal court for an order, much like a search warrant, allowing disclosure of information necessary to locate and identify an alien for criminal law enforcement purposes.

The provision requiring application to a Federal court of competent jurisdiction will safeguard privacy concerns, thus ensuring information contained in an alien's file would not be used for purposes unrelated to law enforcement.

To sum up, my first amendment today will streamline administrative deportation proceedings for criminal aliens who are not permanent aliens, eliminating the redundant and bureaucratic system that exists today.

An alien convicted of an aggravated felony will be presumed to be deportable, and at sentencing in Federal court, the judge would have the ability to enter the final order of deportation at the same time they hand down the sentence.

This amendment also mandates that an applicant for asylum is not automatically entitled to work authorization simply by applying for asylum.

It will be in the discretion of the Attorney General when to grant work authorization.

It is my hope that the issues I have outlined will get the attention they deserve so we can develop a responsible long-term strategy to deal with immigration policy.

I especially want to thank Senators SIMPSON, BIDEN, HATCH, and KENNEDY for working with me on this effort.

I look forward to working with them and with the Clinton administration.

Thank you, Mr. President, and I yield the floor.

COMMUNITY POLICING

Mr. BRADLEY. I would like to congratulate my colleague, the distinguished Senator from Delaware and chairman of the Judiciary Committee, on the community policing provision of this bill. Strongly supported by President Clinton, this provision will certainly enhance the ability of our local police to prevent and respond to crime. Police who walk a beat understand the needs of a neighborhood better than those who cruise in squad cars. With community policing, they are not left to respond to crime, but can actively participate in preventing it.

When I introduced the Community Policing Assistance Act, I sought to foster stronger ties between local police departments conducting community policing and the communities they serve. Community-based organizations provide an important link in this relationship. My review of programs in New Jersey and across the country convinced me that grassroots, community-based organizations can be helpful in providing the police with the information they need to deter and eliminate crime. Under my bill, community-based organizations could have applied directly to the Justice Department for grant assistance to support activities which promote the general goals of community policing. I might note that the distinguished chairman and Senator SIMON were among the original cosponsors of that legislation.

Community organizations can play a very constructive role in a local police department's community policing strategy. They can identify criminals who operate in a particular neighborhood. They can let the police know when a building is being used for illegal purposes or when a particular corner has become an open-air drug market. They can organize civilian foot patrols to ensure that senior citizens and children are able to move about without fear of crime. And they can sponsor activities which foster better relations between the police and the community. While nothing is as effective at reducing neighborhood crime as a professional police force, community organizations can often act as partners with the police, helping them to do their job more effectively.

I am a strong supporter of this community policing provision. But I, and I believe the senior Senator from Illinois, would appreciate some clarification by the chairman of the Judiciary Committee on one aspect of the bill. It is my understanding that community-based organizations will be eligible for funds under this program which are not designated to hire police. I want to make sure that the chairman agrees with me that such groups play an important role in local community policing and should be funded under this program.

Mr. SIMON. I concur with the comments of the senior Senator from New Jersey. Like him, I envision a very constructive role for community-based organizations in community policing. I would appreciate some comment from the chairman about the likelihood that they will receive funds under this program.

Mr. BIDEN. I would like to thank the Senators from New Jersey and Illinois for their questions. It is my understanding that community-based organizations are eligible for the funds in this program which are not specifically designated for the hiring and rehiring of police. I believe some of the funds not designated for the hiring and rehiring of police should be channeled to these groups. I also agree that community-based organizations are uniquely positioned to enter into partnerships with local police departments involved in community policing. I believe Attorney General Reno shares this view.

Mr. SIMON. I thank the chairman and congratulate him on this program.

Mr. BRADLEY. I also thank the chairman and yield the floor.

POLICE PARTNERSHIPS FOR CHILDREN ACT

Mr. DODD. Mr. President, I rise today in support of my amendment that responds to the trauma experienced by many children living in communities beset by violence.

As we discuss this crime package, I think it is important for us to remember that it is children who are increasingly victims and witnesses to violent crime in this country. In some neighborhoods, children are afraid to set foot outside their homes for fear of being caught in the crossfire.

This fear can cause psychological trauma that will last a lifetime. My amendment, the Police Partnerships for Children Act, will give police and communities some tools to help these children.

COMPELLING CASE FOR ACTION

A quick review of some statistics demonstrates the need for such a measure.

One survey of inner-city children 6 to 10 years of age found that more than 90 percent had witnessed some type of violence.

A Chicago housing project survey found that virtually every child interviewed had firsthand experience with shootings by the age of 5.

Not only are children witnessing crimes in record numbers, but they are also becoming victims of crimes in record numbers.

American teens are more than twice as likely as adults to be victims of violent crime.

Every day in the United States, between 12 and 15 children and adolescents die as a result of violent crimes. That is 4,500 young lives a year—4,500 promises for the future that are lost to us forever.

CHILDREN OF WAR ZONES

Children who live in high-crime areas experience trauma not unlike children in war zones. A November 1st Washington Post story provided ample evidence that many American children are no longer planning for the rest of their lives. Instead, they are planning for their own deaths.

According to the Post article, children as young as age 10 are preparing for their own funerals.

Rather than deciding where they will go to college or what career they will pursue, these children are deciding which burial clothes they prefer and what kind of music they want played at their funeral.

Many of these children described by the Post live in inner-city Washington. We must not, however, dismiss violence as an inner-city problem, a minority problem, or a problem confined to poor neighborhoods. Violence permeates all areas of the country and all levels of society.

CYCLE OF VIOLENCE

Left untreated, children traumatized by violence may themselves become perpetrators of violence. The cycle continues because no one makes the effort to break it. As Surgeon General Joycelyn Elders has said: "It is often easier for our children to obtain a gun that it is for them to find a good friend."

ROLE POLICE OFFICERS CAN PLAY

My amendment, the Police Partnerships for Children Act, will help police and communities break the cycle of violence that traps many of our children. This amendment recognizes the valuable role police officers can play in this effort.

For it is police officers who come into frequent contact with children who have witnessed violence, children who have been its victims, and children who have lost someone they love.

Although police are often in the best position to assist such children, they often lack the resources to do the job. My amendment would provide $20 million in grants to law enforcement agencies that form partnerships with child and family service organizations in an effort to help children deal with the psychological effects of violence. Departments engaged in community policing would receive priority for these grants.

The amendment would also help mental health services providers connect with young victims, witnesses, and perpetrators of violence. These professionals can provide a guiding hand to children who without help may enter the cycle of violence.

CRISIS RESPONSE SERVICE

The centerpiece of such partnerships would be a 24-hour crisis response service that would provide counseling as well as followup services to children and families involved in a violent incident. The partnership also would provide training to police in child development and family issues, increasing their ability to respond to community members' needs. In addition, the amendment makes additional funds available to provide mentoring and conflict resolution services.

This legislation is modeled on a partnership between the New Haven Police Department and the Yale Child Study Center. This program is rooted in the concept of community policing—in which police, by their visibility in the neighborhood and their engagement in community activities, provide positive role models and resources to promote the well-being of children.

I have consulted with a number of police officers in developing this bill, beginning with Chief Nick Pastore in New Haven. At a hearing last spring, John Pritchard, New York City's first deputy police commissioner also offered his support.

TIME FOR ACTION

Mr. President, I hope my colleagues will keep in mind the gravity of this problem. Let me repeat the statistics: More than 12 children each day in the country die a violent death; for preschoolers in some neighborhoods, the experience of having seen someone shot is the rule, not the exception.

Clearly, there is no one answer to this complicated problem of violence, but we must make a start. For too long, we have thought of the children of war as the children of Sarajevo, Beirut, of Belfast. We must face the fact that they are now the children of Hartford, Washington, and Los Angeles—and countless other cities and towns across the country.

It is time we did more than just lock our doors and turn our heads away. It is time we help our children break this cycle of violence. I urge my colleagues to join me in supporting the Police Partnerships for Children Amendment.

LORTON EXPANSION

Mr. KOHL. Mr. President, the amendment by the Senator from Virginia is acceptable. The Senator is to be commended for bringing this amendment forward in this form. As chairman of the Appropriations Subcommittee on D.C., I will work with him to ensure that the needs of the city are met and that the concerns of his local community are addressed in a responsible way. His leadership on this matter should go a long way to making the intent of this amendment a reality.

D.C. is hard-pressed for space to house those convicted of violating its laws; it follows that we can not hamstring the city in its efforts to provide adequate prison space. The D.C. prison has been located on Federal land in Virginia for nearly a century. When it opened, the Lorton area was rural and out-of-the-way. In time however, the population of the area has grown. In recognition of this growth the D.C. government has taken steps to mitigate Lorton's impact and make the residents of the surrounding area more secure.

It has instituted a 24-hour hot-line for residents of the area to call when they hear sirens or see unusual activity at the prison. The D.C. government reimburses other local governments when their fire or police units must be called to the prison to respond to emergencies. Perimeter security has been enhanced, and guard towers are being renovated to provide better facility security.

Mr. President, it is no secret that Fairfax County would like to be rid of the Lorton prison. At this point, that is not an option. Nevertheless, it is appropriate, as the Senator's amendment provides, to ensure that expansion plans be approved by the Congress, as they have been in the past, through the city's budget process. D.C. and Fairfax County cooperate on many other efforts including Metro, other transportation problems, and wastewater treatment. The Lorton prison complex offers another opportunity for enhanced regional cooperation.

BOOT CAMP

Mr. LEVIN. Mr. President, I was very encouraged to hear the discussion about boot camps on the floor last week. I have been a supporter of boot camp prisons for a long time, because I think they fit the bill we are looking

for when it comes to punishing young, non-violent criminals: the punishment is sure and swift; it is tough; it steers these young offenders away from a life of crime and toward taking responsibility for their actions; it provides discipline, structure, and self-respect; it keeps them away from the hardened career criminals; and it helps free up space in traditional prisons for more serious, violent criminals.

I have learned a lot about boot camp prisons over the last few years. About 26 states have boot camp prison programs now. These are intensive programs that typically lock up young, non-violent offenders for 90 days to six months. During that time these offenders are required to adopt regimented, military-style routines—they wake up early, perform drills and physical exercises, do heavy labor and community service projects, and study under close supervision. There is no TV and no lounging around.

What often gets the attention of the public and the press when it comes to boot camps is the image of a drill sergeant yelling in an inmate's face. But that's only a small part of what's going on. What's also going on is that young, non-violent offenders are being taught to take responsibility for their actions, to give up their street-smart attitudes and work as part of a team, and to perform community service instead of preying on the community. There are also literacy programs and drug treatment programs so that when these offenders get back out on the street, they will be less likely to commit new crimes because they will be equipped to function as productive members of society.

There is another benefit to boot camps, too—they help states stretch their corrections budgets further.

The Subcommittee on Oversight of Government Management, which I chair, held two hearings on boot camps back in 1989, one here in Washington and one in my home state of Michigan. I've personally visited boot camps in Michigan and Florida, too.

At the hearings, we heard from State corrections officials, from staff working in the trenches at these facilities, and from inmates themselves about the value of boot camp prisons. Some of corrections staff had also worked in traditional prisons, and they told us that the difference between boot camps and traditional prisons was like day and night—traditional prisons too often just warehouse people until their sentence is up, while at boot camps the staff saw changed behavior and attitudes, for the better. Inmates too told us what a shock it was to get to boot camp and to feel discipline for the first time. They told us that it was tough, and that they thought about quitting and going to regular prison where they could sit around and wait out their sentence. They told us that they were motivated to stick to the straight and narrow when they got out—many for the first time in their lives.

I have seen letters from former inmates to their drill sergeants saying "thanks"—that for the first time someone cared—and letters from parents saying their sons had changed dramatically for the better as a result of the experience.

One of the lessons I have learned is how important follow-up programs are to the boot-camp concept. Boot camp is an intense experience; it's a shock. The daily schedule is grueling—almost every minute is controlled and it usually involves intensive physical effort or hard study. Young offenders experience that for 90 days or more, and then they are released. Just when they get a sense of order and purpose, they are returned to their old environment.

Unless there is a structured post-release program for these boot camp veterans, it is too easy to return to life before boot camp, and then all that structure, all that intensity is lost. The recidivism rate is about the same between boot camp and traditional prison, once you control for factors like the prisoners' age and seriousness of offense. That's due in part to the absence of adequate follow-up and post-release programs. The experts who study these programs all point to the need for intensive follow-up or "aftercare."

"Aftercare" is the term that's been adopted to describe the post-incarceration phase of a boot camp program. As I said, one thing the States have learned in running these programs over the last 10 years is that boot camp alone is not enough to turn many young offenders around if they are then returned to the same environment they came from. The lessons of boot camp need reinforcement on the outside if they are going to stick.

Building on the Oversight Subcommittee's work, I offered an amendment to the 1990 crime bill with Senator COATS to create a grant program to encourage States to create or expand their boot camp prison programs. We included in that grant program the explicit requirement that the quality of the provisions for aftercare be considered as an important factor in evaluating the proposals for grants. Grants totalling over $2 million have been awarded under that program by the Justice Department, with more planned for 1994. These grants have gone to programs in Missouri, Illinois, Kentucky, California, and Pennsylvania.

The bill before us recognizes the important role that boot camp prisons can play in an overall corrections scheme and will add two major opportunities for boot camp funding to the program Senator COATS and I were able to get established in 1990. The pending bill would provide money to States for boot camps as part of a formula grant program for alternative forms of punishment—of which boot camps are one possible form—and would also provide grant money to States or groups of states for establishing or expanding boot camp programs.

Mr. President, I am offering a amendment to the bill, along with Senator COATS, to improve one of these boot camp provisions. One of the boot camp provisions already contains the necessary language, but, inadvertently I believe, the section called "Alternative Punishments for Young Nonviolent Offenders"—which is the formula grant program to State and local governments for a variety of "alternative" sanctions, including boot camp prisons—has no requirement that these boot camp programs include "after care" components. The amendment that Senator COATS and I are offering would require that any boot camp funded under this section also include follow-up programs. The post-release follow-up may be educational or job training, drug counseling or treatment, intensive supervision, halfway house programs, job placement, or other self-help or peer group programs.

Again, the bill already recognizes the importance of follow-up to a successful boot camp program in the other boot camp provision, and, as I mentioned, follow-up is part of the grant program already in place as a result of our 1990 legislation. The Levin-Coats amendment simply adds the same requirement to the "Alternative Punishments" section.

TO AMEND THE LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1985

Mr. MOYNIHAN. Mr. President, I am pleased that the Senate has approved today, as part of the crime bill, my amendment to the Law Enforcement Officers Protection Act of 1985. In 1986, the Senate passed that legislation by a vote of 97 to 1. The Act made it unlawful to manufacture or import ar morpiercing ammunition. President Reagan signed the bill into law on August 8, 1986.

As I said in 1986, cop-killer bullets have no place in the arsenal of any sportsman or law abiding citizen. They have only one purpose—to injure or kill police officers, Federal law enforcement officers, or even Presidents when they are wearing bullet-proof vests. The Senate has the responsibility to protect the Nation's law enforcement officers.

We did this in 1986, and we have done so again today. It recently came to our attention that a Swedish-made bullet, the M39B, does not fall under the 1986 prohibition because of its composition. The M39B is a 9mm round capable of piercing the soft body armor worn by police because it has a thick steel jacket surrounding a lead core—rather than the hard projectile core in other armor-piercing rounds.

The bureau of Alcohol, Tobacco, and Firearms [BATF] supports the ban on

the M39B, which is limited to this kind of ammunition only. The Fraternal Order of Police and the Federal Law Enforcement Officers Association have also endorsed this legislation.

We need this bill to protect our police officers. We cannot stand idly by, waiting for the day when M39B bullets fall into the hands of criminals. That day has not arrived yet, but it will if this amendment does not become law. We must ban the M39B now.

Mr. President, I would be remiss if I did not mention for the record the indispensable assistance of Phil Caruso, President of the New York City Police Benevolent Association, who was of tremendous help in this as in so many other efforts. My thanks also to John W. Magaw, Director of the Bureau of Alcohol, Tobacco, and Firearms, James Pasco of the BATF, Dewey R. Stokes, National President of the Fraternal Order of Police, and Victor Oboyski, Jr., Executive Vice President of the Federal Law Enforcement Officers Association. I ask unanimous consent that letters from BATF, the Fraternal Order of Police, and the Federal Law Enforcement Officers Association, and an article from today's Washington Post be printed in the RECORD at the conclusion of my remarks.

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

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, DC, November 4, 1993.

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

DEAR SENATOR MOYNIHAN: As the Senate takes up the issue of controlling handgun ammunition, I would like to take this opportunity to make you aware of a particularly dangerous type of ammunition now coming into circulation.

The M39B is a 9mm Parabellum caliber cartridge which defeats police soft body armor, but which is not subject to current law governing armor piercing handgun ammunition. As you know, current law controls handgun ammunition when the projectile or projectile core is made entirely of one or more defined metals.

The M39B escapes being covered because it utilizes an overly thick steel bullet jacket. The core of the bullet is lead.

Clearly as 9mm handguns continue to expend their market share, we in law enforcement are faced with the threat of offenders armed with high capacity, rapid firing handguns filled with ammunition, each round of which will punch through a policemen's body armor.

I know you appreciate the seriousness of this issue, and I hope you find the information about this ammunition informative. Pleased be assured of our interest in working with you on this issue and of our willingness to answer any questions you may have.

Sincerely yours,

JOHN W. MAGAW,
Director.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Columbus, OH, November 1993.

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

DEAR SENATOR MOYNIHAN: On behalf of the Fraternal Order of Police, I applaud your efforts to address the increasing violence in this country by introducing legislation aimed at controlling the distribution of ammunition. I now request that you take your proposed legislation an extra step by banning the sale of the M39B bullet.

The M39B bullet is a 9mm Parabellum caliber cartridge that is able to penetrate soft body armor used by police departments. As you know, armor piercing ammunition is tightly regulated by the Gun Control Act. This particular bullet is not currently controlled by those regulations.

It is imperative that M39B ammunition be banned from use, for the protection of the men and women in law enforcement who are charged with protecting the citizens of the United States.

Your continued support of the law enforcement community is appreciated by the members of the Fraternal Order of Police.

Sincerely,

DEWEY R. STOKES,
National President.

FEDERAL LAW
ENFORCEMENT OFFICERS ASSOCIATION,
November 4, 1993.

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

DEAR SENATOR MOYNIHAN: On behalf of the Federal Law Enforcement Officers Association, I am writing to thank you for attention to the terrible threat gun violence has become to our Nation's health.

I also want to take this opportunity to ask you to examine what can be done to stop the sale of the M39B 9mm Parabellum round of ammunition.

The M39B effectively penetrates soft body armor; but because its steel jacket, rather than the bullet or core of the projectile, gives it this ability it is untouched by existing law.

This is a round of ammunition that has found its way through a loophole in the law and is aimed at the heart of police officers everywhere.

We thank you as always for your interest in the public safety and urge you to act to stop the spread of this new "cop killer" ammunition.

Sincerely,

VICTOR OBOYSKI, Jr.,
Executive Vice-President.

[From the Washington Post, Nov. 18, 1993]

JUSTICE DEPARTMENT URGES PENTAGON NOT TO PURCHASE "COP-KILLER" BULLETS

(By Pierre Thomas)

Amid growing concern about military arms making their way into street crimes, the Justice Department has been trying to stop the Department of Defense from purchasing armor-piercing bullets that pose a threat to American law enforcement.

The Justice Department's concern about 9mm bullets like the Swedish M39B is in keeping with a broader federal attempt to develop more controls on a new class of "cop killer" ammunition for handguns capable of slicing through bulletproof vests. The bullets now fall into a loophole in federal gun regulations and are not restricted, officials say.

The fear is that the rounds, if purchased in large quantities by the Pentagon, might end up in the wrong hands and become more readily available to criminals, leaving police vulnerable. Theft and pilferage from military bases has been a mounting concern of law enforcement agencies, who have watched criminals gain access to stolen military parts Sen. John Glenn (D-Ohio) has scheduled a hearing today that will explore the widespread theft and illegal use of military equipment by street gangs and others.

Last week, President Clinton announced that Treasury Department officials were reviewing whether certain bullets, including the Swedish-made M39B, should be banned from sale, setting the stage for what could be the next major legislative battle in the gun control debate. The gun lobby has argued that tighter regulation of bullets will do little to address the surge in violent crime.

The Justice Department's concern about a possible Defense Department procurement of armor-piercing rounds for standard use by U.S. troops began during the Bush administration and has grown more intense as the ammunition undergoes military testing and review.

"Any bullet that can pierce the body armor that police depend on to protect their lives is one that has no business on the street," said a Justice Department statement released yesterday.

After a request by Attorney General Janet Reno, Secretary of Defense Les Aspin promised in August that any large procurement of armor-piercing bullets for handguns will be reviewed and approved by the undersecretary for acquisition. Special provisions may be made to ensure that the bullets are protected from theft and pilferage.

Law enforcement has strongly objected to a possible procurement by DOD. "We'd have grave concern over the mass acquisition of ammunition that could easily get into the wrong hands and then be used to defeat the bulletproof vests that have been an effective safety device for police," said Daniel Rosenblatt, executive director of the International Association of Chiefs of Police.

The Justice Department became aware of the Defense Department's consideration of the M39B rounds during the Bush administration. Former attorney general William P. Barr contacted former defense secretary Richard B. Cheney to object to the possible procurement but got little response, administration sources said.

In April, Reno wrote Aspin to ask that the issue be reconsidered. Reno said she understands the possible need for armor-piercing bullets in some combat situations. But she expressed fear that these bullets and others like them—already present in this country, but not generally available—could put police at greater risk.

In his August letter, Aspin also said defense officials will assess risks to civilian law enforcement, including the potential for pilferage and theft, and would work closely with the Justice Department as it conducts the review.

Yesterday, Army spokesman Maj. Mark Samisch said the M39B is still being evaluated and no final decision about the bullet has been reached.

Federal law has banned some "cop killer" bullets capable of slicing through police body armor since the mid-1980s. But the federal law about such handgun ammunition is precise, using specific definitions about design to determine which rounds are prohibited. The new class of 9mm armor-piercing bullets do not fall under the federal definitions.

The Justice Department is working on a number of other proposals to restrict sale of armor-piercing bullets.

A team of department firearms experts is developing a new standardized ballistics test that could be used to sort out bullets that can pierce body armor but do not fit under narrowly constructed federal definitions. The proposal represents a radical change in handgun ammunition regulation, which has focused on how a bullet is made rather than its performance.

If a test can be developed, the department likely will support legislation requiring manufacturers to test the piercing ability of bullets before they are sold to the public.

"Everytime you see a new bullet [armor piercing], you have to come up with a new definition," said David Boyd, director of the National Institute of Justice's science and technology division. "We need to develop an objective scientifically based test. We will never stay ahead of the technology."

BROWN SENSE OF THE SENATE RESOLUTION ON FEDERAL PRISON INDUSTRIES

Mr. RIEGLE. Mr. President, I rise to speak in opposition to a resolution, sponsored by Senator BROWN with regard to Federal Prison Industries [FPI], contained in the Republican manager's amendments to the crime bill. I have decided not to object to the package of amendments even though I have serious reservations about this amendment, and I am deeply disappointed that the efforts of private industry and labor did not result in much needed changes. It is especially regrettable because this is one issue upon which most of us generally agree. FPI is an invaluable program which constructively employs thousands of Federal inmates across the country.

The Brown amendment states that it is the sense of the Senate that able-bodied Federal prisoners should work. Now, I think that we can all agree on that idea. However, the resolution proceeds to say that all Federal inmates should work—clearly, this cannot safely be done. Maximum security Federal prisons cannot, and should not be expected to, accommodate an FPI production facility where high numbers of prisoners are in less-supervised circumstances. The combination could be dangerous for correctional officers, and could jeopardize the security of prison personnel.

The amendment goes on to require that the Attorney General file a report to Congress within 4 months, outlining a strategy for employing more Federal prisoners. There are two major errors in this provision. First, it gives the Attorney General total authority over the contents of the report; as many of my colleagues know, one major criticism of the current summit on Federal Prison Industries process has been that the Justice Department and its Bureau of Prisons have exercised undue control over the contents of the summit final report, released last month. Although I have the utmost respect for the Attorney General, and I have met with the Director of BOP and Assistant Attorney General Sheila Anthony on this very issue, the Secretary of Labor should be an equal partner in any assessment of Federal prison labor programs.

Second, this provision specifies that only certain named parties will be consulted, and does not require that those comments be included in the Attorney General's report. While the amendment was redrafted to correct the total exclusion of private industry and labor representatives, this list of consulted parties still excludes the administrator of the Small Business Administration, the Secretary of Commerce, and some of FPI's largest Federal agency customers. The impact of FPI expansion into private commerce upon private companies and upon American workers will not be guaranteed adequate consideration under this amendment as currently drafted. Both of these errors are major shortcomings, and I am disappointed that these errors were not rectified.

Another issue of concern is the narrow focus of this required report from the Attorney General. According to the resolution:

(3) the report shall contain a review of existing lines of business of the Federal Prison Industries, consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993) and make recommendations for legislation and changes in existing law which may be necessary for the Federal Prison Industries to employ more federal inmates.

By specifying findings and recommendations of the final summit report, this amendment purposely excludes the comment section of the summit report, which contains all of the concerns and issues raised by private industry and labor participants. It is wholly unfair to exclude these legitimate concerns from consideration by the Attorney General. This provision does not require a review of FPI's current marketing practices, a matter which is essential in assessing future diversification and expansion, nor does it require any assessment of the FPI administrative structure to ensure fair representation of industry and labor interests.

On its face, the Brown amendment sounds like an excellent idea—everyone agrees that federal prisoners should be given meaningful work through Federal Prison Industries, and that FPI needs to be diversified and improved. My opposition to the Brown amendment does not stem from any disagreement with its general intent, and I wish to make that absolutely clear. In fact, last year 24 of my colleagues and I, Democrats and Republicans, cosponsored a bill to further that very goal. We would have welcomed the support and cosponsorship of our colleague from Colorado at that time. Any approach to this serious problem needs to be fairly balanced between the competing interests of the federal prison system and private industry and American workers. This amendment could have been improved to achieve that balance, and I regret that it was not. For that reason I oppose the Brown amendment.

Mr. DOLE. Mr. President, I am pleased to join with my distinguished colleagues, Senator SIMPSON and Senator BRYAN, in cosponsoring this amendment.

Aliens—both legal and illegal—constitute an inordinately large portion of our total prison population. For example, nearly 25 percent of the inmates in the Federal system have alien status. In Los Angeles County, it has been estimated that more than 10 percent of the inmates in the county jails were in the United States illegally at the time of their arrest.

This amendment attempts to address the criminal-alien problem by incorporating many of the provisions of the neighborhood Security Act, the anticrime bill that Senate Republicans introduced last August.

For example, the amendment would streamline the deportation procedures for illegal aliens convicted of an aggravated felony by allowing a deportation order to be carried out immediately upon the completion of the prison sentence. The amendment would also authorize Federal trial judges to issue a deportation order at the sentencing hearing. Prior to the issuance of the order, the trial judge must obtain the concurrence of the commissioner of the INS.

Both of these provisions are designed to ensure that, once they have served out their sentences, criminal aliens will return to their country of origin, rather than return to the streets of our country to commit acts of violence once again.

In addition, the amendment increases the penalties for criminal aliens who reenter the United States after being deported. An aggravated felon who reenters the United States after being deported would be subject to a maximum prison term of 20 years, up from the current term of 15 years. An alien convicted of a less serious felony would be subject to a maximum prison term of 10 years, up from the current term of 5 years.

Finally, the amendment provides $13 million in funding for a criminal alien tracking center that is designed to help Federal, State, and local law enforcement authorities determine whether an individual arrested for an aggravated felony is indeed an alien. Congress first authorized the establishment of the tracking center in the 1988 Antidrug Abuse Act, but the center has never been funded.

Mr. President, this amendment will not solve the criminal-alien problem overnight, but it does represent a step in the right direction. I want to congratulate my colleague from Wyoming, Senator SIMPSON, for his continuing leadership on this important issue.

Mr. SIMPSON. Mr. President, I am very pleased to join Senator BRYAN in offering this amendment.

This amendment addresses the serious national problem of aliens who commit serious crimes in the United States.

The attorney general has observed that 25 percent of the convicts in the Federal prisons are aliens, legal and illegal. Let me state very clearly that this constitutes a very small percentage of the legal aliens in the United States, the great majority of whom are productive, law-abiding residents, nevertheless, these criminal aliens constitute a significant percentage of Federal convicts. Many, many more aliens are incarcerated in State and local jails and penitentiaries.

This amendment will provide the means to expeditiously deport those who have violated the hospitality of this country by committing serious felonies in the United States, and it will make it more difficult for those criminal aliens to reenter the country.

This amendment expands the definition of aggravated felony so that expedited deportation hearings may be held at the end of the alien's prison sentence of those aliens who commit serious crimes in the United States.

It streamlines the deportation procedures for criminal aliens and allows the Federal district courts, at the request of the attorney general, to issue deportation orders at the sentencing hearing of aliens convicted of an aggravated felony.

It restricts the defenses to deportation of an aggravated felon alien who has been sentenced to 5 years or more, and it increases the penalties for criminal aliens who fail to leave the United States, or who leave and attempt to illegally reenter the United States after a final order of deportation.

Also, the amendment allows electronic or telephonic deportation proceedings, and, where the alien and Government agree, it permits deportation proceedings without the presence of the alien.

Finally, the amendment authorizes funds for 5 years for a 24-hour criminal alien tracking system which will assist Federal, State, and local authorities in determining whether an individual arrested for an aggravated felony is an alien, and it will assist in identifying deported aggravated felons attempting to reenter the country.

The first section applies the expedited deportation procedures in the immigration laws to the following felonies: firearms violations, failure to appear to answer a felony charge, demanding/receiving ransom money, RICO violations, certain immigration-related offenses including alien smuggling and sale of fraudulent documents, child pornography, owning or operating a prostitution business, treason, and tax evasion.

The second section provides for the streamlining of the deportation proceedings for any alien—except permanent resident aliens—convicted of an aggravated felony. The deportation order would be carried out immediately upon the end of the prison sentence.

This provision would also eliminate three types of review of the deportation order—before an immigration judge, before the board of immigration appeals, and before the Federal court—but it would allow a court review to assure that the person sought to be deported is an alien and has been convicted of an aggravated felony. The attorney general may not execute a final order of deportation for 14 days in order to allow the alien an opportunity to seek that Federal court review.

The third section allows Federal trial judges to issue a deportation order at the sentencing hearing of aliens convicted of an aggravated felony. Such an order must be requested by the U.S. attorney with the concurrence of the INS commissioner. Notice of intent to seek a judicial order of deportation must be given promptly after a guilt adjudication or plea. The Government must show that the alien is an aggravated felon alien.

Judicial deportation in those cases would replace current administrative deportation procedures. Aliens found deportable under this process would have the right to appeal their deportation to the appropriate Federal appeals court of appeals.

The fourth section restricts the defenses against the deportation of aggravated felons except those aliens who have been permanent residents for at least 7 years, have lived in the United States during those years, and have been sentenced to—not served—less than 5 years imprisonment. Currently, a permanent resident alien is ineligible for relief from deportation if the alien has served 5 or more years for one or more aggravated felonies. This section would amend the language to make aliens who have been sentenced to 5 or more years ineligible for relief from deportation relief.

This standard is more relevant to judging the seriousness of an offense since dangerous criminals are at times released prematurely due to prison overcrowding, or other reasons unrelated to the seriousness of crime.

The next section increases penalties for failing to leave the country, or for reentering, after a final order of deportation has been issued. Currently, an alien who is deportable for criminal offenses, document fraud, or as a security risk is subject to criminal penalties of up to 10 years imprisonment for failure to depart. However, there are no penalties for failure to depart for aliens deportable for other reasons. Subsection (a) retains the current 10 year penalty and provides criminal penalties of up to 4 years imprisonment for aliens who are issued deportation orders on other grounds, and who fail to depart.

Subsection (b) increases the penalties for criminal aliens who reenter the United States after being deported. Aggravated felons who re-enter the United States could be imprisoned for up to 20 years in prison currently the penalty is 15 years. An alien convicted of other i.e., nonaggravated felonies who re-enters the United States could be imprisoned for 10 years currently the penalty is 5 years and this penalty will also apply to aliens convicted of three or more misdemeanors.

Subsection (c) restricts the judicial review of a deportation order in a criminal proceeding against a deported alien who has re-entered the United States. A challenge is available only if it is established that the alien was improperly deprived of judicial review of the original deportation order, and that the order was fundamentally unfair.

The fifth section clarifies current practice—everywhere except in the 9th circuit—that allows deportation proceedings to be conducted by electronic or telephonic means. Currently, immigration judges circuit ride to conduct deportation proceedings. Not all aliens contest their deportation and will agree to conducting the proceeding by telephone or closed circuit cameras. Others wish to raise issues in the proceedings, but want the proceedings to be conducted as soon as possible, and will agree to electronic or telephonic proceedings.

This section makes clear—for all circuits—that the attorney general is authorized to conduct these types of proceedings. This section also allows deportation proceedings to be conducted, in the absence of the alien, where waived or agreed to by the Government and the alien. Again, at times aliens do not contest the proceedings and will allow the proceedings to proceed without them. This section allows efficient use of Government resources in those instances where the alien consents to the proceedings.

Subsection (b) clarifies that the ability to begin deportation proceedings quickly after a criminal conviction does not create a legally enforceable right to have the deportation proceedings conducted within a certain time frame.

The final section authorizes funds for 5 years to implement a 24-hour criminal alien tracking system which will: provide assistance to Federal, State and local authorities to determine whether an individual arrested for an aggravated felony is an alien, and develop a computerized system to identify deported aggravated felon aliens so that they can be identified if they illegally attempt to reenter the United States.

This tracking system was established in the 1988 Anti-Drug Abuse Act and a program has been structured, however, funds have never been provided. INS has indicated that this tracking center would be a valuable asset to promptly identify, and eventually deport, aliens convicted of aggravated felonies.

I urge my colleagues to support this amendment.

PROHIBITING THE SALE AND TRANSFER OF HANDGUNS TO JUVENILES

Mr. WARNER. Mr. President, the amendment which I have sent to the desk and which is now pending will make it a Federal crime for anyone to sell, or transfer for consideration, a handgun or handgun ammunition to any person under the age of 18 years, except when such a sale or transfer is permitted under applicable State and local law and the parent or guardian of the juvenile has given their prior consent to the sale or transfer. This amendment is designed to strike at the heart of the juvenile handgun problem—namely, the private, uncontrolled sales of handguns and handgun ammunition to juveniles for cash, drugs, and the like.

This deficiency in the Federal criminal statutes was brought to my attention in recent months during my consultations with Federal judges in their chambers in Virginia, as well as in meetings with prosecutors, Federal and State, and chiefs of police throughout the State. In short, the Federal law now prohibits the sale of a handgun to a juvenile by a licensed dealer, but Federal law does not prohibit private sales and transfer of handguns and handgun ammunition to juveniles. What a senseless omission in our Federal law. My amendment would fill that void.

The issues which arise from the uncontrolled sale and transfer of handguns and handgun ammunition to juveniles are numerous and complex, and I recognize that there are a number of different approaches to these issues. For example, last week the Senate agreed to an amendment offered by the senior Senator from Wisconsin, Senator KOHL, and others which focused on criminalizing the possession of a handgun by a juvenile. I spoke to that amendment during debate on November 8, 1993, and described how my amendment would be complementary. While that approach in the Kohl amendment may work, I offer this amendment so that the conference between the Senate and the House of Representatives can consider also my approach as they draft the conference report.

I am concerned whether, even if it is a wise use of the time of Federal prosecutors and courts to process potentially thousands of juvenile offenders for mere possession of a handgun or handgun ammunition, our Federal programs and facilities for probation, parole, and confinement are capable of handling this large influx of juvenile offenders. Additionally, there are a vast number of situations in our society in which mere possession of a handgun by a person under 18 years of age is perfectly reasonable, and should not be made criminal conduct. But it has been my experience that criminal statutes with large numbers of exceptions are often more difficult to enforce, and often result in less enforcement.

Therefore, I prefer to focus on this problem in a more direct way—by focussing the Federal criminal law on the source on the guns and on the types of transactions most often associated with juvenile handgun violence. My amendment would make it a Federal crime for anyone to sell, or transfer for any consideration, such as drugs or other contraband, a handgun or handgun ammunition to any person under 18 years of age. These are the types of transactions which most often are associated with juvenile violence, and the amendment focusses on the people who would transfer handguns to juveniles for personal gain. There would be only one exception to that prohibition—if the sale or transfer were permitted under State and local law and the sale or transfer were with the prior consent of the parent or guardian of the juvenile.

My approach to penalties is also simple and direct. Any person who sells or transfers a handgun or handgun ammunition to a juvenile in violation of the statute would be subject to a penalty of up to $5,000, or imprisonment for up to 5 years, or both. However, if the person who sold or transferred the handgun or handgun ammunition to the juvenile did so knowing or having reasonable cause to know that the juvenile intended to use the handgun or handgun ammunition in a crime of violence, that person would be subject to up to 10 years imprisonment, up to a $5,000 fine, or both.

I believe this direct, straightforward approach to the problems caused by the uncontrolled sales and transfers for consideration, such as drugs, of handguns to juveniles is enforceable and, therefore, has the best chance to be effective. I urge my colleagues to support this amendment.

FAMILY BREAKDOWN

Mr. DOLE, Mr. President, I am pleased to join with my distinguished colleague from New York, Senator MOYNIHAN, in offering this important amendment.

Last week, the Senate took a big step forward in the war against crime. We earmarked $8.9 billion in funding to help our States and localities put more cops on the beat. We allocated $6 billion in additional resources to build more prison space. We passed our Nation's first Federal anti-gang statute. We adopted the Republican truth-in-sentencing proposal, which will encourage the States to upgrade their own criminal laws so that violent criminals are kept behind bars where they belong.

And best of all, we have attempted to pay for these proposals by embracing the Federal work force cuts outlined in the national performance review.

Mr. President, if all these measures are signed into law, they will do doubt take a bite out of crime, in the short-term, that is.

For, when all is said and done, the best deterrent to crime is not police, or a police cell, but something called conscience—that little inner voice that says: "No, you better not do that. It's wrong." For generations, people have developed conscience through the church, the schools, and most importantly, through families and the set of values that families have traditionally transmitted to their children.

Unfortunately, the American family today is in tatters. More than two-thirds of all black children, and nearly 25 percent of all white children, are born to unwed mothers. In some inner-city communities, the illegitimacy rate is a staggering 80 percent, as thousands of children are born each year into a world without fathers and to mothers who are simply unprepared for the responsibilities of Motherhood.

The corrosive impact of family breakdown on inner-city life cannot be underestimated. Not only is there a clear link between family breakdown and poverty, as Senator MOYNIHAN pointed out some 28 years ago, there is also an indisputable link between family breakdown and crime.

President Clinton was right on the mark when he recently suggested on "Meet the Press" that there was a direct correlation between crime and drugs, on the one hand, and the collapse of the two-parent family, on the other. To find proof of this relationship, we need look on further than our State reformatories, where nearly 70 percent of the juveniles housed in the reformatories come from homes without fathers.

Mr. President, this amendment is important because it is the first time the Senate has gone on record acknowledging the enormous social costs associated with illegitimacy. Our country cannot continue down this path, producing generation after generation of children without families and without values.

This amendment directs the Secretary of Health and Human Services to prepare a report on the possible causes of the breakdown of the two-parent family and propose remedial measures. I look forward to this report, and hopefully, Congress will be able to use it as a basis for legislative action.

Obviously, Government is not the Nation's nanny. It cannot, and should not be, responsible for raising our Nation's children. No Government agency

can implant personal morality, nor can a congressional committee build character.

But if we're really serious about addressing the root causes of crime, we need to go to the deepest root of all—the family.

My aim here is not to renew the debate over family values, but rather to emphasize that we ought to value the family as an essential ingredient of any long-term approach to the crime epidemic.

Finally, I want to commend my colleague from New York for his foresight in bringing this difficult issue to the attention of the Senate and the American people.

Too often, Senator MOHNIHAN has sounded the illegitimacy alarm in isolation, only to be greeted with either outrage or apathy. Today, in 1993, we ignore this alarm at our own peril.

THE LORTON CORRECTIONAL FACILITY

Mr. WARNER. Mr. President, I rise today to join with my colleague Senator ROBB in offering this amendment to the anticrime legislation pending before the Senate.

Mr. President, the maximum security prison in Lorton is overcrowded at this time. Security enhancements must be established and updated at the complex before an expansion of the complex is ever contemplated. The residents who live in the neighborhoods near the complex are fearful of many safety issues which may arise if the prison is expanded to house even more inmates at the complex.

Mr. President, recently U.S. District Judge T.S. Ellis III held hearings on a case involving a Lorton prisoner who has a drug problem. In one of Judge Ellis' writings, he said he heard inmates talk about the ready availability of drugs at the prison. Judge Ellis wrote that the testimony moved the court to label Lorton a public disgrace.

Mr. President, I believe Fairfax County and the Commonwealth of Virginia should have the right to review and approve any expansion of the Lorton Correctional Complex because of the impact such an expansion would have on the safety of the citizens of Virginia and the property values of the people who reside in the neighborhoods surrounding the complex.

For many years Mr. President, I have urged the District of Columbia and the Bureau of Prisons to construct a Federal prison in the District of Columbia and proceed to identify locations for the facility and also seek comments from the general public. The Bureau of Prisons had a sum of $84,000,000 set aside for the construction of a facility to be built in the District of Columbia. Mr. President, after much opposition from the District of Columbia, the funds were eventually rescinded by H.R. 2118, the first Supplemental Appropriation bill. How can anyone seriously consider expanding the Lorton facility when the District of Columbia turned its back on its responsibilities and on the $84 million available to build a prison in the District of Columbia?

Mr. President, I am totally against any expansion of the Lorton Correctional Complex. I urge the District of Columbia to live up to its responsibilities and select an appropriate site in the District for a future correctional facility to be constructed. The inmate population at the Lorton complex must be reduced and the complex must have its security requirements enhanced.

PROHIBITING THE SALE AND TRANSFER OF HANDGUNS TO JUVENILES

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This deficiency in the Federal criminal statutes was brought to my attention in recent months during my consultations with Federal judges in their chambers in Virginia, as well as in meetings with prosecutors, Federal and state, and chiefs of police throughout the State. In short, the Federal law now prohibits the sale of a handgun to a juvenile by a licensed dealer, but Federal law does not prohibit private sales and transfers of handguns and handgun ammunition to juveniles. What a senseless omission in our Federal law. My amendment would fill that void.

The issues which arise from the uncontrolled sale and transfer of handguns and handgun ammunition to juveniles are numerous and complex, and I recognize that there are a number of different approaches to these issues. For example, yesterday the Senate agreed to an amendment offered by the senior Senator from Wisconsin [Senator KOHL] and others which focused on criminalizing the possession of a handgun by a juvenile. I spoke to that amendment during debate on November 8, 1993, and described how my amendment would be complementary. While that approach may work, I offer this amendment so that the conference between the Senate and the House of Representatives can consider also my approach as they draft the conference report.

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I believe this direct, straightforward approach to the problems caused by the uncontrolled sales and transfers for consideration, such as drugs, of handguns to juveniles is enforceable and, therefore, has the best chance to be effective. I urge my colleagues to support this amendment.

PRISONERS SHOULD WORK SENSE OF THE SENATE RESOLUTION

Mr. BROWN. Mr. President, I rise in support of my sense of the Senate resolution which expresses the sense of the Senate that all able-bodied Federal prisoners should work. I am pleased that the managers of this crime bill, the Senator from Delaware [Mr. BIDEN], and the Senator from Utah [Mr. HATCH], have agreed to include this resolution in the managers' amendments package.

I am further pleased that the chairman of the Judiciary Committee, Senator BIDEN, has agreed to review this matter of expanding work opportunities for federal prisoners after the Attorney General makes her report to the Congress as called for by my resolution.

Mr. President, recently the Washington Post carried an article written by a convicted murderer which offered an account of the daily activities of prison inmates at a Federal penitentiary. I ask unanimous consent that the article entitled, "Menace II the Mind" appear in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. BROWN. Frankly, Mr. President, I was appalled at what I read. The article stated that the principal occupation of inmates is watching television. The author added that inmates prefer to watch violent television and that when they do, they cheer the bad guys and boo law enforcement. This is unacceptable.

After reading this article, I asked my staff to determine what the existing situation was with respect to work programs for prisoners. I was disheartened at what I learned. Traditionally, one-half of the Federal prison inmates had meaningful prison jobs. Now, with the increased prison population, less than one-quarter are employed in prison industry positions.

Let me repeat that, Mr. President. Because there are insufficient jobs available to federal prison inmates, only 25 percent of them work. My sense of the Senate resolution seeks to remedy that situation and put more prisoners to work.

It directs the Attorney General, in consultation with other executive branch officials and the private sector and labor, to prepare and submit a report to Congress by March 31, 1994 which describes a strategy for employing more Federal prison inmates.

The report called for by the resolution also is required to consider the findings and recommendations of the summit on Federal prison industries.

It is expected that the summit will convene again in January to issue its final findings and recommendations with respect to how more Federal prison inmates can be put to work.

Further, the resolution calls for the Attorney General's report to Congress to make recommendations for legislation and changes in existing law which may be necessary to employ more federal prison inmates.

Finally, Mr. President, the resolution requires the Attorney General to weigh three considerations when making her recommendation to Congress.

First, the Attorney General should focus on the creation of new job opportunities for Federal prison inmates. Second, the Attorney General should identify the degree to which any expansion of lines of business that may negatively impact the private sector or displace labor. And third, Mr. President, the Attorney General is directed to assess the degree to which opportunities for shall business can be utilized.

Mr. President, the simply fact is that only 25 percent of Federal prisoners work. All should. This sense of the Senate resolution which I have authored attempts to move inmates from the television room and into the workroom. I look forward to working with my colleagues in the other body to ensure that this resolution is accepted by the conferees to the crime bill

Finally, Mr. President, I wish to note that my friend and colleague, the Senator from Mississippi, Senator TRENT LOTT, desires to be added as an original cosponsor of this resolution. I would ask unanimous consent that he be so added.

Thank you, Mr. President. I yield the floor.

EXHIBIT 1

MENACE II THE MIND—FOR A GENERATION OF BLACK MEN IN PRISON, TELEVISION IS THE DANGEROUS DRUG OF CHOICE

(By Larry Bratt)

The room is cavernous and filthy, its putrid yellow walls coated with the droppings of the pigeons who, impervious to the wiles of the guards, roam freely throughout the building. You would not think, by the looks of it, that this place would be a haven for hundreds of young, healthy black men. Yet most days every bench and picnic table in this room is filled. For this room houses the large-screen televisions. It is one of the most important places in the Maryland State Penitentiary.

When people outside the world of the maximum security prison imagine life within it, images of rock-breaking labor and back-breaking workouts probably spring to mind. As far as I can see, a more realistic image begins with the theme song of "America's Most Wanted." As the show blares on the rec area's set, raptness sets in. The inmates are intrigued by what criminal acts others are committing, hoping to pick up possible pointers on how to do whatever crime is being showcased. As importantly, they watch to see if anyone they know—perhaps even themselves—is being profiled.

As the show progresses, all spectators naturally cheer for the fugitive and applaud wildly when one of law enforcement's finest falls by either gunfire or by being outsmarted by the good guy—that is, the criminal. If the outlaw is finally apprehended, the hissing and booing last for minutes. Then, during the commercial break before the next show begins, comes serious discussion on how the criminal could have avoided capture.

I believe there is something wrong with this picture.

Every day America's 4,000 prisons and jails receive and influx of young African-American males as new inmates. Many of the million-plus inmates have been convicted of senseless crimes of violence. The majority of these young men first encountered crime and a glamorised view of the drug trade through a TV set. Inside—being "corrected"—they now spend the great bulk of their days watching TV.

Having been an eyewitness for the past 11 years. I don't need a newspaper to tell me why this is so. America's prison system is plagued by overcrowding and limited budgets for rehabilitation and counseling. This perhaps explains how TV—low-cost, low-maintenance, wildly popular—has become so central to our lives here. In institutions across America, it has emerged as the pacifier of choice for a population of uneducated and alienated black men. And that fact is not an accident.

In the Maryland penitentiary many of our actions and possessions are severely restricted. Yet every inmate is allowed a television as part of his personal property.

When men are locked in their cells they freely watch whatever they want. Between 3 and 4 in the afternoon, during the last daytime count to make sure all inmates are still in the institution, a great many men watch the soap operas. Myself included—I'm a "General Hospital" devotee. Afterwards at dinner one can overhear talk about what happened on such and such soap. The bottom line is that practically every inmate in this penitentiary watches television and weekend videos an average of eight hours per day.

This prison society of couch potatoes is a nationwide phenomenon. More than two-thirds of America's prisons are currently wired for cable. In-cell sets are commonplace, and the constant drone of public-area TV's no less than a necessity. This phenomenon is part of an unspoken correctional philosophy. As Donald Cline, associate superintendent at Missouri's Jefferson City Correctional Center, told Newsweek last year, "I don't want to call it a babysitter, but it's certainly an adult-tender." Unfortunately, it is exactly what the inmates I see here don't need.

The average age of African-American males entering prison today is approximately 20. The typical inmate has little more than an elementary education. Many do not even know the alphabet. Three-fourths are high school dropouts and an equal number have never held a job for any length of time. Most have grown up in a household without the benefit of male guidance. Is it possible that this lack of education and male supervision has left a void in these young black men? Could it be endless hours of adolescent TV viewing of murders, drug deals and other assorted crimes have simply made these children inured to right or wrong?

Despite recent confessions by network executives about the consequences of overexposure to TV violence, I'm not so naive as to place TV at the root of all criminal behavior. Yet when I spoke recently with six newly arrived teenage inmates—all serving life sentences for homicide—they each told the same story. They were raised by a mother who struggled to make ends meet. As children they spent their time going to school, roaming the streets and watching television. They struggled in schools where they felt like outcasts. Unable to relate to a curriculum that did not speak to their experience and their world, ignorant of any skills to make them employable, they sought solace and identity through television.

Seeing TV shows depict the rewards of a life of crime and drug dealing as financially profitable, each of these impressionable teens stated that the risks of death and or imprisonment were worth it, because they had nothing to live for. So they joined gangs and began dealing drugs for the local drug lords. Today, the general opinion is that when they are released the first thing they

are going to do is get a gun. Then they are going to rob so that they can get money. Anyone who gets in their way is going to die.

If TV formed in some large or small way their values upon arrival here, the daily dose of it once inside only furthers that amorality—and adds to it the idea that they are so worthless to society that no effort is being made to educate or train them for something better. Since society considers them not worth saving, they reason, they will continue to treat that society with murderous disdain.

Their logic is not unsound. For at this institution, and many others, working or studying or otherwise improving oneself is a wholly optional activity—one for which there are only minimal rewards. This is why, out of a fluctuating population of around 950 men, fewer than a third have jobs, which range from print and sew-shop workers to janitors (we call them "tierman") to kitchen and yard workers. For these men, a typical day begins with breakfast, which is served in shifts starting at 5 a.m. The day's work begins at 8:30 and ends at 4:30, interrupted only for an 11 a.m. head count, lunch and a 2:30 lock-down allowing the guards to change shifts.

The non-workers rise for meals and come for head counts and lock-downs, of course, but their days are otherwise unstructured. They can take showers, use the phones or go outside in the yard. They can run, play softball or football depending on the season, lift weights or engage in the boxing and basketball competitions that are organized in some form all year long. But as often as not you can find them before the TV, which goes all day long. In the unbearably lonely and empty life of an inmate, "Oprah," game shows and the soaps provide a powerful distraction and consolation.

Even education, for the few who choose to obtain it, accommodates the TV lifestyle and offers little in the way of actual learning except for those truly determined to get it. At present there are roughly 120 men to General Equivalency Diploma, or GED, classes out of the total population of 950— a surprisingly small number considering the fact that school lasts only an hour and a half a day and earns you 95 cents a day. (The paycheck, as far as I can discern, is the chief reason inmates enroll.) Tests are usually open-book, and men are allowed to take them back to their cells, where cheating is, not surprisingly, rampant. When even this simple schedule grows oppressive, the men can easily receive a pass from a guard in order to go out and watch TV or play ball.

If a man wants to get an education, he can study and learn. For myself, prison has proved expansive of both girth and intellect. And approximately 150 other men—mostly older men—attend college courses that are conducted by instructors from Coppin State College and the Community College of Baltimore. These men often have jobs too. They tend to be very serious about getting a college degree, hoping it may one day make the difference in being granted parole. It may also, of course, keep them out of prison once that wish is granted. Nationwide, prisoners who earn a college degree have a recidivism rate of only 9 to 12 percent, compared to about a 65 percent recidivism rate for the uneducated prisoner.

The stakes for educating and training inmates are thus enormously high. Yet with a population that is 40 percent illiterate, the up-front costs are, too. Thus the incentives are rigged so that inmates are less inclined to remake their lives than to sit around and do what they've been doing for most of their lives—that is, nothing more useful than watching TV and scamming with the homeboys.

How to wean inmates from the electronic narcotic and its destructive influence? These young men have nothing but time; put it to productive use.

First, we must regulate their TV viewing and make schooling a mandatory requirement in their daily activities. Push young people to get not only their high school diploma, but a college degree. Convince them that the education they're getting is no joke. Staff the courses with trained, committed professionals who want to nurture these young wounded minds back into health, instead of handing out As and Bs for illiterate responses in open-book exams. Teach each one a marketable skill—one actually needed by society. Teach them, too, about their African heritage and its rich place in world and American history—and its role today. Give them a sense of racial and national pride.

And give them, above all, the right incentives to redeem themselves after so many years of bitterness, hatred and wasted time. As they progress with the program, let their efforts to succeed lead to a reduction in their sentences, a recovery of their futures. In short, turn off the tube and unlock the power of their minds. Who knows what good may come of it?

Yes, it will cost. But we are a nation known worldwide for our humanitarian efforts. Do we want to be remembered as a people which turned their backs on their own children? Can we allow an entire generation of African American youth to be lost because our officials have concluded that a real effort to reach them would cost a few thousand dollars too much?

And do we really want to suffer the consequences when those young men, gorged with television and starved of all real care, return to the 'hood? Do we really want to discover firsthand that the television culture of America's prisons cannot soothe the savage beast.

TRANSFERRING THE NAME OF THE ALBERT V. BRYAN COURTHOUSE

Mr. WARNER. Mr. President, I would like to bring to the Senate's attention my intention to offer legislation to transfer the name of the Albert V. Bryan Courthouse from its current location at 200 South Washington Street in Alexandria, VA, to the new Federal courthouse at Courthouse Square South and Jamieson Avenue.

The Congress approved in 1986 the designation of the Federal courthouse in Alexandria, VA, in honor of Judge Bryan's lifetime of public service. When the construction of the new Federal courthouse in Alexandria is complete, it is most appropriate that this building bear the name of Albert V. Bryan.

Judge Bryan was appointed to the U.S. District Court in 1947 by President Truman and promoted to the Appeals Court by President Kennedy in 1961. In his years on the bench, Judge Bryan developed a record as a legal conservative, yet his court was pivotal in ordering the integration of Virginia's public schools in the days of massive resistance.

Mr. BAUCUS. I thank the Senator from Virginia for bringing this matter before the Senate. As the Committee on Environment and Public Works is responsible for the naming of public buildings, I can assure the Senator that this matter will be considered by the Committee at its first appropriate business meeting in the next session.

THE BRYAN AMENDMENT ON THE RELEASE OF CERTAIN CONFIDENTIAL INFORMATION

Mr. SIMPSON. Mr. President, I rise in support of Senator Bryan's amendment.

This measure modifies the amnesty provisions of the Immigration Reform and Control Act of 1986.

In the legalization program under the act, we provided that all information disclosed by an illegal alien in the process of applying for amnesty would be confidential.

We included this provision to encourage people to come forward and apply, if they qualified, without fear that they would be disclosing themselves to immigration authorities, and be subject to deportation.

To help convince unauthorized aliens that it was truly an amnesty, we kept the legalization files confidential.

However, law enforcement officers have been placed in the frustrating position of trying to identify alien suspects in crimes—such as the recent CIA shooting—without the benefit of identifying information, such as photographs and fingerprints already in the government's possession.

This proposal to provide a narrow exception to this requirement of confidentiality, administered under the supervision of a Federal judge, for the purpose of locating aliens for law enforcement purposes, or to identify deceased persons, is acceptable.

As I mentioned, the purpose of the confidentiality of these files has largely been served—more than 3 million aliens felt secure in making an application for legalization—and I feel it is now appropriate to provide access to this confidential information under the limited circumstances provided in the amendment.

I support the amendment and urge my colleagues to support it.

TROOPS-TO-COPS

Mr. DOLE. Mr. President, Senate Republicans and President Clinton both understand that putting more cops on the street means more security for the American people.

Unfortunately, new police hires have not kept pace with a violent crime rate that has increased by 500 percent since 1960. Throughout the 1950's, for example, there were more than three police officers for every violent felony that was reported. Today, for every police officer, there are more than three violent crimes reported. If we are to win back our security, we must reverse this dangerous trend.

That is why Senate Republicans introduced the Neighborhood Security

Act. This comprehensive anticrime legislation authorized, and paid for, $2 billion in funding to put more men and women on State and local police forces.

One of the key proposals contained in the Neighborhood Security Act was a troops-to-cops program. The amendment I am offering today with my distinguished colleagues, Senator HATCH and Senator THURMOND, reflects this proposal.

Mr. President, the bottom line is that our fighting men and women have discipline and weapons training—two key skills necessary for effective law enforcement. The talents of these young men and women should not be wasted, but rather should be put to work fighting crime on our State and local police forces.

As a result, this amendment directs the Attorney General to allocate a portion of the $8.9 billion that has already been authorized for community-policing grants to help State and local governments hire former members of the armed forces who have been involuntarily discharged from the military as a result of the recent cuts in defense spending.

In making grants under this troops-to-cops program, the Attorney General may give priority to communities that are adversely affected by a recent military base closing.

One of the conditions for receiving grants under the program is an assurance that the new police hires will not displace those officers who are already on the job. In other words, the purpose of the grant is to augment existing police forces, not supplant police officers who are now at work fighting crime.

Mr. President, this is a common sense amendment that will achieve two goals at the same time: It will add another powerful weapon to our arsenal in the war against crime, while giving our veterans another opportunity to serve their country. I am pleased that the full Senate has endorsed the amendment.

INTERNATIONAL CHILD PORNOGRAPHY

Mr. GRASSLEY. Mr. President, the United States is today the world's most lucrative market for commercially produced child pornography. In this country, child pornography is a multibillion dollar business. And that figure does not include the very high costs to children of the abuse that they suffer in the production of these materials. Outside this country, unfortunately, American dollars are used to promote the abuse of children. Hundreds of thousands of children throughout the world are victimized in this trade, and many of them are abused for the purpose of child pornography destined to be sent to this country.

My amendment will raise significant barriers to the international trafficking in child pornography by making it a felony under United States law for any person outside the United States to produce or traffic in child pornography, with the intent that such materials are to be imported to the United States.

When I distributed my originally drafted amendment to Chairman BIDEN, this portion would not only have covered child pornography intended to reach the United States, but also would criminalize such material where the pornographer knows, or has reason to know, that the pornography will reach the United States. In the spirit of trying to work out some of Senator BIDEN's concerns, this portion of my amendment applies only if the individual actually intends that the materials reach the jurisdiction of the United States.

Federal law can extend criminal jurisdiction to off-shore production of these materials that are destined for this country, just as it can prohibit offshore manufacture, production, and distribution of illegal drugs destined for the United States.

United States citizens also promote child prostitution abroad through pedophile sex tourism, a practice where Americans and tourists from other western nations travel overseas to places where children are readily available for purchase and abuse. My amendment will follow the Mann Act to prohibit overseas travel by Americans for the purpose of engaging in sexual acts with a minor where such activity would be a crime if it had been committed within Federal jurisdiction.

It is clear that Congress possesses the constitutional authority to criminalize acts committed by Americans in other countries, even where those acts might be legal under the laws of the jurisdiction where the act was committed. Think of the practical consequences if the law were otherwise.

It is not a crime under the law of foreign countries not to pay American income taxes. If Congress could not extend its criminal jurisdiction to Americans abroad, evading the tax laws without consequence would be very easy. All Americans would have to do, in the absence of any treaty, is live abroad, fail to pay taxes for the length of the period of the statute of limitations, and then return home.

The Mann Act itself prohibits certain immoral practices if they occur within foreign commerce. That act has been upheld against numerous constitutional challenges in the more than 80 years since it has been enacted. And the Federal Air Piracy Statutes do not apply only in American Jurisdiction nor even only against Americans.

Let me take a few moments to discuss some of the relevant case law. I do this because the chairman of the committee had some concerns about the constitutionality of my amendment. I hope this discussion will alleviate his concerns and make clear that this amendment is constitutional.

Apart from a long history of criminal statutes that apply overseas, the Supreme Court has expressly upheld the authority of Congress to pass such legislation. In 1922, a unanimous Supreme Court, one which included Justice Holmes and Justice Brandeis, decided United States versus Bowman. There, the Court upheld the convictions of defendants for conspiracy to defraud a corporation in which the United States is a shareholder. One of the crimes was committed in Brazil. The defendants argued that because the crime was committed in a foreign country, Federal Law could not reach them.

In an opinion by Chief Justice and former President Taft, that argument was rejected. The Court held that the application of a Federal criminal statute outside the United States was a Question of statutory construction—not one of Constitutional Law. For crimes against private persons—such as the one in my amendment—the Court stated:

> If punishment for them is to be extended to include those committed outside of the strict territorial jurisdiction, it is natural for Congress to say so in the Statute, and failure to do so will negative the purpose of Congress in this regard.

It might be objected that the Bowman case can be distinguished on the ground that a greater nexus with the United States existed there than with this Amendment, as the United States Government was a shareholder in the defrauded company.

That fact made a difference in the Court's holding, but only as to the relevant rule of statutory construction. In a case where the Government is involved, the statute is presumed to have effect outside the United States, unless Congress expressly states to the contrary. This is not a relevant issue for constitutional law purposes.

Indeed, Mr. President, as recently as this year, the Supreme Court ruled that the Sherman Antitrust Act, which of course contains criminal provisions, has effect outside the United States. As the Court noted, the Sherman Act applies to foreign conduct that was meant to produce, and did in fact produce, some substantial effect in the United States. That is also true of the conduct prohibited by this amendment.

Even the dissent in the antitrust case agreed that Federal criminal laws can apply even to noncitizens abroad. The power of Congress to enact such legislation derives from its article I authority to regulate commerce with foreign nations. The dissent noted that although extraterritorial statutes are construed to avoid conflict with international law, the American statute will prevail if it is reasonable. The key factors in determining reasonability are the character of the activity to be regulated and the importance of the regulation to the regulating State.

I believe that child sex tourism, which necessarily involves profit from

the rape of children too young to consent, is vile. It is of a character that cries out for regulation. Moreover, I maintain that the importance of this regulation to the United States is great. In fact, I think it is so great that it is not merely enough to prohibit acts that take place in this country, but the gruesome act must itself be made illegal if committed by an American abroad. All those who agree with me that Americans should be stopped from traveling abroad to engage in sexual acts with children will agree with this amendment.

Finally, Mr. President, my amendment will also strengthen laws against child pornography and child exploitation at home. Although many States have enacted strong legislation on this subject, others have not. I had originally planned to condition certain future grants to States on enacting sufficiently tough legislation. Because Chairman BIDEN objected to that approach, I offered to merely have Congress recommend that enactment of such laws.

Instead, my amendment expresses the sense of Congress that States should enact laws protecting children under 18 From exploitation through child pornography. The States also should impose criminal penalties of a maximum sentence of at least one year and require the forfeiture of assets used or gained from the sexual exploitation of children.

Mr. President, I believe that this amendment will provide additional protection to children who face the horrors of exploitation through child pornography. It will cut down on the amount of child pornography that would otherwise enter this country. And it would hopefully lead to expanded protection for children at home from similar evils. I am grateful that my colleagues have agreed to take this necessary action, and I appreciate the efforts of the Chairman to reach an agreement acceptable to all concerned.

CRIME AMENDMENTS TO S. 1607

Mr. BROWN. Mr. President, I rise today to address the Dole-Hatch-Brown gang crime amendments to S. 1607. The gang crime epidemic that is claiming neighborhoods around Colorado and across the Nation. The Department of Justice reported there were 4,881 gangs, 249,324 gang members, 1,051 gang-related homicides, and 46,359 gang incidents in 1991. The problem of criminal street gangs is growing larger and larger as gangs extend their criminal networks across State lines into new drug and crime markets throughout the country.

No longer are criminal street gangs just a bunch of bullies loitering on the street corner. Criminal street gangs have become sophisticated criminal enterprises: They have large financial bases and money laundering operations, they are entrenched in the international drug trade, they recruit and employ minors to perform their criminal leg-work to shield the leadership from prosecution, and they are exporting their gangs across State lines into new territories and neighborhoods.

To successfully control criminal street gangs, we must first pass laws which treat gangs as organized crime. The prosecution of low level gang members has not been a successful criminal street gang control strategy. The gang problem defies traditional local law enforcement techniques, much like the Mafia was able to evade serious prosecution before the advent of RICO [The Organized Crime Control Act of 1970]. To remedy this problem, the Dole-Hatch-Brown gang crime amendment treats criminal street gangs as organized crime.

The Dole-Hatch-Brown gang crime amendment enables the successful prosecution of criminal street gangs in several ways: It makes it a crime to be a member of a criminal street gang, it makes it a crime to recruit gang members, it increases penalties for committing gang crimes and for leading or organizing gangs, it enables prosecutors to join the trials of gang members to expose the criminal leadership, it enhances penalties for selling drugs near playgrounds and public housing, and it allows the Government to seize the fruits of gang crimes.

The Dole-Hatch-Brown gang amendment is a bold initiative toward eliminating criminal street gangs. This amendment gives prosecutors the tools they need to get behind the lesser gang members and convict the leadership. By prohibiting membership to a criminal street gang, prosecutors will be able to prosecute more and more members of criminal street gangs. By joining the trials of gang members, the leadership of criminal street gangs can more easily be exposed. By punishing gang recruiters and organizers, the criminal street gangs will be stripped of their leadership for a long, long time.

It is our belief that this gang crime control amendment is a necessary and effective tool for law enforcement. Indeed, we must aggressively prosecute criminal gangs so that our inner-city children can quit planning their funerals at the age of 11.

Passage of this amendment stands for the proposition that we will not sit idly by as drive-by shootings kill innocent children, as crack houses decimate neighborhoods, as heartless, violent gangs recruit a generation of children into the underworld of crime, drugs and violence.

We need to punish gang members for recruiting kids into the criminal gang world of drugs and violence in order to give the next generation of Americans a chance. The Dole-Hatch-Brown gang crime amendment accomplishes this. Passage of the Dole-Hatch-Brown gang crime amendment is a strong first step toward eradicating gang crime and reclaiming America's neighborhoods.

BOOT CAMPS STATEMENT—LEVIN/COATS AMENDMENT

Mr. COATS. Mr. President, I am very supportive of the provisions in the crime bill on boot camps and am gratified that so many of my colleagues on both sides of the aisle see the potential in using boot camp programs. I believe this concept can provide enormous benefit to States and communities.

In 1989, I proposed the Innovative Boot Camp Prison Act to promote shock incarceration as an alternative to prisons for some individuals. I have offered amendments on boot camps in the past which have been overwhelmingly approved in this body. In 1990 Senator LEVIN and I offered an amendment to the crime bill which embodied much of my Innovative Boot Camp Prison Act language.

The provisions now contained in this crime bill build on what we have already achieved in boot camp funding. Through this authorization and because of the Byrd amendment's trust fund provision, $2 billion will now be available to States who wish to build boot camps or prisons for drug treatment. Another $200 million is available to States for a variety of programs—including boot camps—as alternative punishment for young nonviolent offenders.

I believe boot camps as an alternative to traditional incarceration is an idea which must be pursued. Our traditional method of locking criminals up seems not to deter future crime. We must be prepared therefore to explore new ideas.

Nonviolent offenders make up 50 percent of our prison population. While prison walls and cells serve the important purpose of isolating dangerous criminals from society, does it make sense to strip nonviolent prisoners of their privacy and possessions, expose them to constant threats of violence, warehouse them with hardened criminals, deprive them of meaningful work, and then expect a rejuvenation of morals and manners? Prisons protect society. They don't reform lives.

The boot camp concept is based on the notion that young drug users, white collar and petty criminal, and other first time nonviolent offenders should be given a chance to rehabilitate and reform themselves. Although each State's program varies, boot camps traditionally provide a short 90- to 180-day period imprisonment followed by a return to a community supervision for young adult recruits who have not been in prison before. The program includes a rigorous, military-style, physical regimen, discipline, hard labor, drill and ceremonial exercise. Programs also include drug testing and treatment, counseling, and education.

I believe that shock incarceration—as it is also called—is a more appropriate form of punishment for those persons who have been convicted of nonviolent crimes. These programs offer drug offenders, white collar criminals, petty thieves, and other first-time offenders in their late teens and twenties who are serving short sentences an opportunity to be rehabilitated. It is hoped that boot camps can help turn around young offenders before they have committed themselves to lives of crime. Boot camps can teach these individuals about the values of a work ethic and individual responsibility, a sense of self-worth, self-discipline, and an understanding of the consequences of criminal activity. They can also provide the education, skills, and other tools to become productive, contributing, and law-abiding members of society.

Boot camps as an alternative to imprisonment have been growing in appeal in recent years. In the last 3 years the number of States using boot camps has grown from 11 states to 26 while the total number of boot camps in the country have increased to 41 and 18. In addition two Federal boot camps—called intensive confinement centers—one for men and one for women opened in 1990. Each State's boot camp vary some in size, requirements, and program, but they all use military model as the focus.

The boot camp provisions in the crime bill establish the criteria by which States may apply for funds to build boot camps. It also provides for an evaluation to determine the success of these boot camps. I believe that giving States grants to open up boot camps is just the right approach to encourage States to explore this alternative.

Mr. President, I do not look at boot camps as a panacea for all our criminal justice problems. We continue to have a shortage of prisons for violent criminals. I believe that we need prisons to isolate violent and dangerous criminals from society. The more comprehensive law enforcement provisions of this bill will be meaningless if we cannot keep violent criminals behind bars.

According to Bureau of Justice statistics, violent criminals sentenced to an average of 7 years and 11 months actually only serve 2 years and 11 months, one-third of their sentence. Fifty one percent of violent offenders are released from prison before they serve 2 years; 76 percent are released before serving just 4 years.

I believe boot camps can provide enormous relief to States experiencing caps due to overcrowding. By using boot camps for nonviolent offenders, additional cell space is freed up in prisons for the more dangerous criminals. States who have released prisoners early because of overcrowding will be encouraged to keep violent offenders in prisons for their full terms.

We must be more serious about seeking cost-effective and longer term solutions to crime on our society. I believe boot camps can serve as an effective alternative to prisons for some individuals. Shock incarceration may play an important role in turning young offenders away from lives of crime—thereby saving communities the associated costs of recidivism and saving the lives of potential future victims. They also help States address their overcrowding problems. Moving eligible non-violent offenders to boot camps frees up places in prisons for those who commit violent crimes.

The GAO report of April of this year concluded that it is still too early to determine the effects boot camps are having on recidivism. This can only come with more time and study. However, State Administrators are seeing some positive results from the use of boot camps. And boot camps are cost effective.

The costs of running boot camps are far less than building prisons for nonviolent offenders. Assessments in early January of 1993, indicate that on average the cost of maintaining an inmate at a boot camp was $17,500 compared with $25,000 at a prison. Even if an overwhelming improvement in recidivism has not demonstrated yet, the cost savings alone are worth the effort, as its growing popularity among States clearly shows.

Mr. President, an essential element of a successful boot camp program is the aftercare program. If boot camps are really going to do the job in turning young offenders from crime, there must be more to the program than the actual boot camp experience. When individuals leave boot camps, they return to the same environment. This is where follow-up is so important.

The amendment that Senator LEVIN and I are offering to the bill would make clear that States must provide an aftercare program in order to receive funding under the alternative punishments section of the bill. The amendment simply adds that for bootcamps, States must provide assurance that aftercare services such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs will be available to those individuals going through a boot camp program.

I appreciate the willingness of the managers of the bill to accommodate this clarification.

AUTHORIZE APPROPRIATIONS FOR STATE LEADERSHIP ACTIVITIES TO PROMOTE SAFE SCHOOLS

Mr. COCHRAN. Mr. President, my amendment will authorize the Secretary of Education to allocate funds to States to promote and coordinate safe schools programs.

It is important to support initiatives to assess school violence problems, provide community education programs and teacher training for combatting and preventing school violence, and the acquisition of metal detectors and resources for hiring more security personnel for schools. Grants to local school districts made available on a competitive basis will be a big help.

The State leadership amendment I am offering authorizes $10 million in fiscal years 1995 and 1996, divided among all States who apply. The amount each State will receive will be determined by the percentage of funds that State receives under the Chapter 1 concentration grant formula, except that no State will receive less than $100,000. This will help States fight school violence until the more comprehensive safe schools act that is currently pending as part of the elementary and secondary act reauthorization is adopted.

The funds included in the Cochran amendment will be targeted for: Supporting the services of a statewide resource coordinator; providing technical assistance to both rural and urban local school districts; disseminating information on successful school violence prevention programs funded through other Federal, State, local or private sources; and funding other activities the State educational agency deems appropriate to assist in reducing school violence and crime.

Mr. President, America's school children should not fear for their lives on the way to school, once they get there, or on the way home. Parents and communities across the country are outraged because their children are not safe in their schools.

There are numerous examples in every State of senseless violence every day in our schools. To me, this is one of the most disturbing aspects of the violent crime epidemic. Children in schools are killing each other. We have people doing ride-by-shootings into playground areas at schools. Youth gangs on school property are a serious problem. These are not just the problems of the large cities but they plague our rural communities as well.

It comes as no surprise that students in violent schools are much less likely to concentrate on higher academic achievement, are less likely to stay in school and receive the educational preparation necessary to be successful members of our society.

The trends are alarming. According to the 1993 National Education Goals Report, 9 percent of 8th graders, 10 percent of 10th graders, and 6 percent of 12th graders brought a gun to school in the previous month in 1992. This is intolerable, and we must do something to stop it.

We expect students to be serious about school. But schools, and surrounding communities, also have an

obligation to create an environment where teaching and learning can take place.

President Bush and the Nation's governors established six national education goals for elementary and secondary schools in 1989 at the historic Charlottesville education summit. The sixth goal is "by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning."

In the 4 years since the education summit, we have made little progress in reducing school violence and crime. I believe this amendment will provide important support to the efforts of the States to deal with this most frightening problem in many of our schools.

PRISONERS MUST WORK

Mr. BROWN. Mr. President, I rise to thank my colleague, the Senator from Delaware, for agreeing to accept my sense-of-the-Senate resolution on expanding work opportunities for able-bodied Federal prisoners. I will insert at another point in the RECORD a short statement on this resolution, but for the moment I want to propound a question to the Senator.

Mr. BIDEN. I would be pleased to respond to the Senator's question.

Mr. BROWN. I thank the Senator. Is it the intention of the Senator from Delaware to have the Judiciary Committee review the matter of Federal prison inmate employment?

Mr. BIDEN. I say to the Senator from Colorado that it is this Senator's intention, as chairman of the Judiciary Committee, to review this matter once the Attorney General makes her report to the Congress and to take all necessary and appropriate action at that time.

Mr. BROWN. I thank the Senator and yield the floor.

Mr. D'AMATO. Mr. President, I rise today to speak on the Brown amendment to the crime bill.

Senator Brown's amendment aims at putting criminals to work. For this I commend my colleague and friend from Colorado. However, it is also imperative that we not let convicted prisoners displace even one job in non-criminal industries.

Federal Prison Industries, FPI, the Government corporation created in 1934 to train and employ Federal prisoners, needs to be looked at closely as a means of employment for criminals. Prison work should not be at the expense of hard-working, law-abiding citizens in this country. The way FPI is set up now, if a civilian contractor wants to bid on a contract with the Federal Government, it may, as long as FPI has not placed a bid already. If, however, FPI does want to bid on the contract, civilian contractors have no option except to withdraw their bids.

Also, if a civilian contractor already has an existing contract with the Federal Government and FPI decides they want to produce the same product, the civilian company is forced to halt production and hand over the contract to FPI.

Mr. President, I am reminded of an example in my own great State of New York where a small business owner, who manufactured communication cords for helicopters used in Operation Desert Storm, was forced out of business because he lost his contract to prisoners.

FPI came in and decided it wanted to sell the exact same product. The New York company was forced to stop production and turn over its business to FPI. However, the New York firm was able to provide the cable to the Government in similar quantities for under $40 per unit. Awards to FPI, depending on quantity, ranged from $45.88 per unit to $54.15 per unit. This is at least 14.7 percent higher. There was a high rejection rate by the Department of Defense and ultimately, FPI's intrusion into the communication cord business translated into greater costs to the Department of Defense and the placing of our pilots at greater risk. The end result was an inferior product at highly inflated prices.

Small business suffers when FPI is given an unfair advantage over non-criminal industry. FPI was created with the intention of rehabilitation of prisoners. Rehabilitation need not require that the man on the street be robbed twice.

REGIONAL PRISONS AMENDMENT

Mr. COCHRAN. Mr. President, I am pleased that the managers have accepted my amendment which will help provide Federal prison expansion quickly and at significant cost savings. It directs the Attorney General to consider the feasibility of converting Federal correctional complexes currently in the planning or construction phase to regional prisons.

Some Federal correctional complexes now under development or construction have already acquired sufficient land and met the necessary Federal, State, and local regulatory requirements. These facilities may provide an opportunity for conversion to regional prisons quickly, and at a substantially reduced cost.

There is no excuse for letting violent criminals roam the streets of our cities, and our towns, and our rural communities, preying on innocent victims when they ought to be in jail. If we need more prisons and jails, let's get with it and build more. This amendment will point the Attorney General toward expanding our prison space and creating regional prisons with additional prison cells for violent criminals.

I am pleased the Senate earlier accepted an amendment offered by my distinguished colleague from Ohio, Senator GLENN, which encourages the construction of innovative, low-cost prison facilities. That amendment directed the Attorney General to assess the cost-efficiency and utility of using modular construction as an alternative approach to conventional bricks-and-mortar construction.

I want to commend his efforts and express my support for accelerating prison construction through innovative and cost-efficient construction, such as modules and other technologies.

Again I thank the floor managers for accepting my amendment.

COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM AND OLYMPIC YOUTH DEVELOPMENT CENTERS

Mr. DANFORTH. Mr. President, I would like to say just a few words about the amendment offered by my friend and colleague Senator DOMENICI and I. This amendment builds on S. 1138, the Community Schools Act of 1993, introduced in June by myself and Senator BRADLEY with 20 cosponsors from both sides of the aisle.

At the core of community schools was a basic concept—unsupervised children are more likely to get involved in dangerous and illegal activities. Increasingly, parents are unavailable for their children, especially at 3:00 on weekday afternoons. And this problem is especially acute in economically depressed, high crime neighborhoods. Children suffer and grow up to perpetuate the cycle.

Sometimes, the absence of parents is a result of their own involvement in drugs or other illicit activities. Sometimes it is because they are struggling to make ends meet. But the issue is not why children are left alone, it is what we can do about it. The issue is: how can we help the children?

Children need attention, they need a family. They need encouragement and challenges. If they are not getting these from their parents, they will join up with groups of other kids. Unsupervised, and with only television as an influence, living in a world of drugs, sex, and guns, these groups have become what we all refer to as gangs. Drug dealers capitalize on the disenfranchisement of these kids and use them as pawns.

This is how the cycle of drugs and violence is perpetuated. In this crime bill, we are committing over $20 billion to control violent crime. The vast majority is going to police, prisons and rehabilitation programs of various types. I support these measures. We desperately need more police, more prison capacity, and creative programs to deal with offenders and victims.

But until we also address root causes as well, we are doomed to repeating the cycle. That is why this amendment is so vital. Prevention must be the centerpiece of any crime package. Police and prisons and alternative sentencing programs all treat symptoms. They are all initiatives directed at people who

have crossed the line into criminal activity. This amendment treats the disease. It treats the disease of disenfranchisment and disconnection. And it goes farther. The first generation of children who are given safe, supervised lives will carry inside them the antibody and will transmit it to their own children. This approach carries the hope of actually breaking the cycle.

We are committing ourselves to spending billions on prison costing $100,000 for each cell. The cost of keeping a prisoner is $30,000 a year. Let us spend $500 million out of a multi-billion dollar package—just 2 or 3 percent of the package cost—to help kids stay out of trouble.

And let us capitalize on existing assets. Public schools are open roughly 7 hours a day, 170 to 180 days a year. Put another way, a quarter of a trillion dollars worth of public school buildings, classrooms, gyms, swimming pools, libraries and other facilities, are locked up and their owners—the communities—kept out, 85 percent of the time. Communities are clamoring for a place to nurture and protect their children and are ready to devote their own time and efforts. With grants provided under this amendment, the communities themselves will be able to keep their public school facilities open after 3:00 and all year round.

This is not a new idea. Hundreds of communities have implemented before- and after-school programs with a host of educational and recreational activities. Last year in Missouri alone, 675 public school buildings were kept open for community use after school hours and over 6,000 volunteers contributed almost 100,000 volunteer hours.

However, according to a study by the Carnegie Corporation's Task Force on Youth Development and Community Programs, nationally, those who need it most—kids in poverty—do not have such programs. There are exceptions and some, like St. Louis' Walbridge Caring Communities Program and Independence's Schools of the 21st Century Program, have shown how much impact a safe haven for at-risk children can have on a community. That is why the Community Schools Act of 1993 targets distressed areas.

This amendment does not tell communities how to reach their children. It does not set up a vast bureaucracy. It does not turn the government into a substitute parent. But if communities come together with a proposal we can now help them save their own children.

I want to thank Senator DOMENICI for his energy and commitment to working together with me and Senator BRADLEY on this project. I listened to Senator DODD on the floor today, and he has been a leader on this issue. In fact, we have incorporated his Ounce of Prevention Council into our amendment. I am certain that with his help and that of the rest of our coalition, including numerous and respected advocates for children, we will see this amendment survive intact through the conference committee.

This is an important fight, and if the final version of the crime bill contains provisions such as this amendment, I will have renewed confidence that Congress is truly trying to treat the terrible plague of violent crime in this country.

Mr. BIDEN. I thank the Chair.

Mr. DOLE. Have the amendments been agreed to?

The PRESIDING OFFICER. Yes.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRIME AND ABUSE AGAINST PEOPLE WITH DISABILITIES

Mr. DOLE. Mr. President, despite all that has been said about the crime bill, at least one very important thing remains unsaid. For perhaps the first time people with disabilities have been explicitly included in a crime bill. I sponsored an amendment to collect statistics on hate crimes against the disabled, such as arson of group homes for people with mental retardation. Another provision stiffens penalties for such crimes. I was also pleased to join with Senators COHEN and HATCH to provide for criminal background checks on persons providing home care and personal assistance services. For many disabled persons, daily personal assistance is essential to independent living. That assistance should not be an invitation to exploitation.

It is not only these targeted provisions that are important to people with disabilities, but others concerning child abuse and sexual violence. We know too well that all Americans are vulnerable to crime, but people with disabilities are at special risk. For example, children with disabilities are almost twice as likely to be abused as other children, and disabled people are more than one and a half times likely to be victims of sexual violence.

I cannot tell you the extent of other crimes against the disabled because no one collects that information—but we should assume it is high. However, I do know that in a 1986 Louis Harris Survey of Disabled Americans, fear—fear of being hurt, fear of being a crime victim—was ranked as the No. 1 reason why they did not engage in social activities as often as other Americans—whether going to the movies or visiting with friends. Although the Congress has done much over the past 25 years to remove architectural barriers, people with disabilities rank these barriers only fifth among the reasons why they don't go out more. Yet, until now, almost no one has paid attention to what people with disabilities say is their biggest barrier.

Mr. President, 3 years ago we enacted the Americans with Disabilities Act, determined to pursue a national policy of full participation of people with disabilities in American society. But that policy will remain hollow if people with disabilities are afraid to leave their homes, or afraid of their personal assistants.

No doubt about it, this crime bill makes an important start in overcoming the barriers of fear faced by people with disabilities—if only because we can't begin to fix a problem until we recognize one exists. But this crime bill is only a start. We need to know much more about the risks of violence and abuse faced by the disabled, and we need good ideas for other solutions, particularly at the State and local level.

FEDERAL ANTIGANG STATUTE

Mr. DOLE. Mr. President, last week, the Senate adopted an amendment that would make it a Federal crime to participate in, or include others to participate in, a criminal street gang.

I want to take a moment to recognize my distinguished colleague from Colorado, Senator HANK BROWN, who was instrumental in drafting this historic legislation and in ensuring its adoption by the Senate. We all owe Senator BROWN a debt of gratitude for his work in helping make our neighborhoods safer from criminal street gang activity.

Mr. RIEGLE. The crime bill currently before the Senate contains dozens of provisions aimed at making our communities safer. Some of these provisions will be more effective than others. But our most important goal here should be to send increased Federal assistance directly to those communities facing the most serious crime problems. And some of those communities are scattered far beyond the city limits. We know that crime has grown exponentially all across our Nation—in southern towns, rural midwestern farmlands, and small New England villages.

Every Senator here has heard horror stories from their own home State, has met with constituents who live in fear every day, and has made promises to police officers to pass a crime bill which will tangibly improve our communities and our quality of life.

And what kind of quality of life do we have right now across America? We have cases like one involving the 14-year old in Detroit who unflinchingly murdered Elizabeth Alvarez, a pregnant mother, at a bank teller machine in broad daylight—he bragged about shooting her in the head to his friends. Or the case of Jon Gamble, a young Michigan teen who was shot dead after he accidentally brushed against the wrong person in a restaurant doorway. Or the four teenagers who confessed to

killing and dismembering two young friends at the instruction of three adults. Or the latest case, just 2 weeks ago, of the young Ann Arbor woman who was kidnapped at gunpoint from her boyfriend's car, tied up, stuffed into the assailant's car trunk, taken to a remote area and repeatedly raped and beaten, and then thrown off a bridge into a river—and this woman actually survived. We must draw on the anger that we feel when hearing about crimes like these, and use that energy in moving this crime bill forward through conference, in joining together to end this insanity, to end this violence, and to break the cycle of crime in this country.

Today, we have the opportunity to pass crime legislation that will effectively fight crime, and nothing does that better than increasing funding for local community crime control efforts. Right now, State and local law enforcement agencies are struggling to stop the avalanche of crime that is falling upon them.

Communities with high violent crime rates often have the most underfunded schools and health facilities. These areas are also the ones with the most limited tax bases from which to meet their pressing crime control needs. Oftentimes the most painful choice these cities face is allocating limited funding to education on the one hand, and to law enforcement on the other. We must lend a helping hand to these areas, and I believe that the funding in this crime bill is a critical first-step toward that goal.

And violent crime does not stop at the city limits—suburban areas, small cities and towns have certainly not been spared the ravages of violent crime. Drug dealers are moving their operations to suburbs and rural areas to avoid big-city police departments. These areas often employ only a handful of law enforcement officers, and are particularly vulnerable to the criminal element. This bill will put thousands of police officers on the beat in cities, suburbs, and rural areas alike.

Many parts of this crime package bill have been contentious, both here and in our home States, and certainly each of us had our own wish list of things we would have liked included or excluded from this bill. But I am hopeful that the final result will take major steps to make our communities safer places to live for everyone.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (S. 1607) was read for the third time.

ORDERS FOR FRIDAY

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Friday, November 19; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business not to extend beyond 9:45 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the period for morning business under the control of Mr. MITCHELL, or his designee; and, that at 9:45 a.m., the Senate resume consideration of S. 1607.

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

RECESS UNTIL 9:15 A.M., FRIDAY

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate—and I hope there is none—to come before the U.S. Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 1:36 a.m., recessed until Friday, November 19, 1993, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate November 18, 1993:

DEPARTMENT OF STATE

SAM W. BROWN, JR., OF CALIFORNIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS HEAD OF DELEGATION TO THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE).

EXPORT-IMPORT BANK OF THE UNITED STATES

MARIA LUISA MABILANGAN HALEY, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1995, VICE CONSTANCE BASTINE HARRIMAN.

DEPARTMENT OF AGRICULTURE

FREDERICK GILBERT SLABACH, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE FRANKLIN EUGENE BAILEY, RESIGNED.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

JAMES H. SCHEUER, OF NEW YORK, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE WILLIAM G. CURRAN, JR.

THE JUDICIARY

HELEN G. BERRIGAN, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA VICE PATRICK E. CARR, RETIRED.

TUCKER L. MELANCON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE THOMAS E. STAGG, JR., RETIRED.

DEPARTMENT OF JUSTICE

ROBERT DALE ECOFFEY, OF SOUTH DAKOTA, TO BE U.S. MARSHAL FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF 4 YEARS VICE GENE G. ABDALLAH.

ROSA MARIA MELENDEZ, OF WASHINGTON, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF 4 YEARS VICE NOREEN T. SKAGEN.

ROBERT JAMES MOORE, OF ALABAMA, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS, VICE HOWARD V. ADAIR.

JAMES ROBERT OAKES, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS, VICE BRIAN P. JOFFRION.

CLEVELAND VAUGHN, OF NEBRASKA, TO BE U.S. MARSHAL FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF 4 YEARS VICE THOMAS A. O'HARA, JR.

RICHARD RAND ROCK II, OF KANSAS, TO BE U.S. MARSHAL FOR THE DISTRICT OF KANSAS FOR THE TERM OF 4 YEARS VICE KENNETH L. PEKAREK.

FEDERAL MARITIME COMMISSION

WILLIAM D. HATHAWAY, OF MAINE, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1998. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROBERT E. SLONCEN

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

RICHARD W. SCHNEIDER

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD TO BE A PERMANENT COMMISSIONED OFFICER IN THE REGULAR COAST GUARD:

STEPHEN M. MIDAS

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be brigadier general

COL. JAMES A. LASSART [redacted]

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

GARTH K. CHANDLER [redacted]
MICHAEL C. CHAPMAN [redacted]
KENNETH CLEVENGER [redacted]
ROGER W. CORNELUIS [redacted]
VINCENT J. FAGGIOLI [redacted]
WILLIAM E. HARLAN [redacted]
GARY J. HOLLAND [redacted]
ROBERT F. HOLLAND [redacted]
FRANKIE D. HOSKEY [redacted]
JOHN E. KING [redacted]
MICHAEL R. NELLS [redacted]
LOUIE REYNA [redacted]
THOMAS J. ROMIG [redacted]
JAN W. SERENE [redacted]
GARY W. SMITH [redacted]
JOHN M. SMITH [redacted]
CHARLES E. TRANT [redacted]
MICHAEL D. WARREN [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

GUY B. ROBERTS [redacted]

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

JAMES R. SANDBERG [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

WILLIAM F. CAMPBELL [redacted]
MICHAEL J. HEALEY [redacted]
THOMAS M. KINNEAR [redacted]
JOHN F. MACDONALD, JR. [redacted]
JAMES H. O'DONNELL [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

WALLACE J. HUGGIN, JR., [redacted]
CHARLES W. STRONG [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

KELLY D. CROSS [redacted]
GUY F. HARTMAN [redacted]
MARK E. MAREK [redacted]
PATRICK D. NOONAN [redacted]
JAMES L. STALNAKER [redacted]
ROBERT E. TURNER, JR. [redacted]

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDER IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

JUDGE ADVOCATE GENERAL'S CORPS

To be commander

CHARLES M. CLOPTON

THE FOLLOWING-NAMED LIEUTENANT IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be lieutenant commander

FLOYD A. DOUGHTY

THE FOLLOWING NAMED LINE OFFICER TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATE CODE, SECTION 531:

MEDICAL SERVICE CORPS, USN, PERMANENT

To be lieutenant (junior grade)

DWAYNE LINDSEY

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

SUPPLY CORPS, USN, PERMANENT

To be lieutenant (junior grade)

MICHAEL W. BERNHARD
MATTHEW J. BROWNING
JAMES K. GOODALL
MICHAEL M. MALLOY
JEFFREY M. MILLER
THOMAS E. PARSHA
JONATHAN R. PFIFFNER
GREGORY G. RUSSELL
EDWARD E. SIMPSON, JR.
MICHAEL J. STIGLITZ

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

SUPPLY CORPS, USN, PERMANENT

To be ensign

STEPHEN E. ARMSTRONG
GARRY J. BAKER
CARLOS R. BARATA
TODD C. BIEBER
JOHN R. BRIEGEL
PATRICK A. BURSON
JAMIE A. CLARK
ERIC L. COHEN
MICHAEL R. CURTIS
BERNARD P. CYLC
DEAN W. DORCAS
SHANE E. HANNAFORD
KEITH S. HARRIS
DANIEL B. HODGSON
STEVE A. JOHNSON
MATTHEW K. LINCE
VERNON L. LOWE
DAVID W. LUTZ
BRIAN W. MILBY
ALEXIS R. MILLER
EDWARD G. MONINGER, III
TEOFILO C. NINO, JR.
JOSEPH T. PHILLIPS
JENNIFER J. ROWE
SHON M. SEILE
DAVID M. SILVERNAIL
JOHN B. THERIAULT
SHANE A. THRAILKILL
JAMES M. VANDERMEER
MERLE R. WILSON
SCOTT Y. YAMAMOTO

THE FOLLOWING NAMED NAVAL ACADEMY MIDSHIPMEN TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

STEVEN HARLOW DEMOSS
KIMBERLYN MICHELLE DRAYTON
DOUGLAS AARON FACTOR
GREGORY MICHAEL FALLON
THOMAS STEVEN REYNOLDS
DENISE ELLEN WOLFF

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

EDWARD T. ANDERSON
JAMES A. BEDARD
BRET E. BISHOP
WILLIAM A. BLACKMON
KEIR D. BREITENFELD
MYRA L. BURRIS
PETER G. COELHO
JOSHUA R. HEPOLA
GEORGE C. HOWELL, III
DONNA R. KUMBALL
CARY M. KNOX
SCOTT E. MEDLIN
HARRY T. PHELPS
ROBERT A. SCINICARIELLO
STEVEN K. SPEIGHT
NEIL S. WILLIANN
GREGORY J. WIRTH

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ROLFE E. ASHWORTH
JUSTIN D. ELSON
WILLIAM L. HARDMAN
DENNIS J. KLEIN
MARK A. MENDELMAN
JERRY W. MILLER
DANNY A. WHITFIELD

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

REBECCA A. CONRAD
JAMES A. PROTIN

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

CHARLES J. WOODS

THE FOLLOWING FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

WILLIAM A. F. WOODS

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JOHN I. FOSTER, III
KATHRYN L. JOHNSON
PATRICK M. MCQUILLAN

THE FOLLOWING NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

WILLIAM J. KRAMER

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ERIC L. ALTSHULER
BUDD E. BERGLOFF
BRENT J. BISCHOFF
SCOTT P. BONZ
JACK F. BROWN
SEAN J. CARROLL
ROBERT H. CASSOL
JEFFREY S. ELLSWORTH
PHILLIP L. FAUCHEUX
FULVIA M. FIORANI
JOHN A. GEARHART
GARTH D. GRIMM
ROBERT L. HENDRY
KENNETH R. KUBOWICZ
PHILLIP S. LODGE
JOHN A. MAKAR
STEVEN MANCINI
LARRY G. MCCULLEN
JEFFREY D. MCGEE
JOSEPH M. NAULT
CHRISTOPHER H. NEILL
KEVIN M. POLLO
RUEBEN REYNOLDS
STEVEN J. SKRETKOWICZ
ERIC A. SODERBERG

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BRUCE R. BOYNTON

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

MICHAEL G. SENEFF
FREDERICK B. SHANNON

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES B. ANNIS

DEPARTMENT OF STATE

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

IN THE NAVY

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, LINE, USN, PERMANENT

JOHNNY R. ADAMS
WILLIS R. AGEE
MELVIN L. AKINS
CONRADO K. ALEJO
SCOTT A. ALEXANDER
TIMOTHY S. ALEXANDER
CLAUDE A. ALLEN
BILLY G. ANDREWS, JR
HERBERT W. ARMSTRONG
THOMAS W. ARMSTRONG
WILLIAM D. BAILEY
CONSTANCE J. BAKER
KENNETH D. BAKER
WALTER L. BANKS
CHRISTOPHER J. BARBOUR
ANTHONY BARRY
VICTOR H. BECK
JAMES C. BEENE
RICHARD S. BEGGS
AUGUST J. BELLARDINE, JR
JOSE M. BERNARDO
BOYD J. BETTIS
MICHAEL P. BETTS
DEBORAH L. BOOTH
DANIEL P. BRANNICK
MICHAEL L. BRONS
ANTHONY C. BRUNER
KARL M. BRYAN
FRANK V. BULGES
ROBERT W. BULLEN
CHARLES R. BUNCH
JOHN N. BURK
CHRISTINE D. BUSSLER
GREGORY K. BYNUM
STEPHEN D. BYRD
WILLIAM T. BYRD, JR
PHILLIP L. CARD
DONALD W. CARR, JR
ALDEN E. CARVER
BRUCE D. CASPERS
RICHARD CERWINSKI
DAVID O. CHAMBERS
RICHARD B. CHAPMAN
DAVID E. CLARK
JOHN P. CLIFTON
RICHARD F. CLOUGH
ROBERT B. COCO
DONALD D. COLLETTE
DONALD E. COLLINS
FRANKLIN L. COLLINS
JOSEPH P. CONNORS
DANIEL B. CONRAN, JR
VICTOR M. CORA
BRUCE W. COSBY
JAMES B. COUNTS
BRUCE V. COX
ALLEN CRISP
JACKIE W. CRUSE
WILLIAM D. CURRY
KNARVELL DAILEY
MARCELO M. DALISAY, JR
JAMES V. DANIELS
JOSEPH G. DAVIS
MICHAEL D. DAWSON
ENRIQUE R. DELEON
DAVID L. DILLENSNYDER
DANNY J. DOBBINS
DENNIS J. DOERING
CHARLES H. DORSEY
ROSS A. DUNAKIN
DOUGLAS D. DUPLAYEE
DAVID K. DYE
KENNETH A. EPLING
DARREL E. ERICKSON
JOHN E. ERICKSON, JR
HILARIO A. ESTRADA
STEVEN J. FINNEY
JAMES R. FITZGERALD
CAROL S. FLYNN
BEN M. FORD
MARK J. FORSTER
ANITA L. FRANCIS
DONALD J. FRASER
ANTHONY W. FRAZIER
RONALD W. FREITAS
LEONARD M. FRIDDLE
ALAN D. FULLERTON
ANGELITO R. GALICINAO
DEBORAH R. GALUSHA
KYLE J. GALUSHA
WILLIAM J. GARLINGHOUSE
THOMAS P. GARRITY
RODNEY D. GATELEY
SCOTT D. GEGENWORTH
SHELDON GERINGER
ALAN E. GIBSON
ROBERT J. GIBSON, JR
HOWARD J. GILLESPIE
MICHAEL E. GOCHENOUR
EDWARD W. GOHRING
VANCE M. GOOCH
DENNIS H. GOSSETT, JR
WILLIAM E. GOSSETT
STEPHEN L. GRANDONA
GEORGE P. GREGOIRE
DONALD GRIFFIN
MICHAEL S. HAINES
WILLIAM B. HALE
KRIS B. HANCOCK
RHONDA K. HARDERS
FRANCISCO S. HARINA
JEFFERY L. HARMON
JEFFREY K. HAYHURST
RODNEY HEARNS
ROBERT C. HEGWOOD
REBECCA S. HERRINGTON
CRAIG L. HIGGINS
ALLAN A. HIPOLITO
TERRENCE L. HISSONG
JAMES E. HODGES
DOUGLAS J. HOLDERMAN
RANDALL J. HONCIK
ROBERT A. HORNBAKER
STEPHEN R. HUGHES
CHRISTOPHER L. HULL
CHRISTOPHER E. IMBACH
STEVEN L. ISAACSON
EDWARD S. JABLONSKI, II
DAVID V. JACKSON
ERIN L. JAMES
EDWARD J. JOHNSON
JAN L. JOHNSON
RICHARD D. JONES
JOSEPH M. KAMINSKI, JR
BARBARA A. KAPER
SHEILA KAPITULIK
DAVID L. KEESEE
HERBERT L. KENNEDY, III
CHARLES A. KEPLINGER
RICHARD J. KERZNER, JR
DANIEL D. KISICH
STEPHEN M. KOZLOWSKI
JOHN E. KRAUSE
BRIAN W. KUDRNA
HALLETT H. LAMM, JR
DAVID E. LAMME
CHRISTOPHER M. LATHEM
MICHAEL J. LEEGAN
THOMAS C. LETTIS
KEVIN C. LILEK
CHRISTOPHER LINDSEY
PATRICIA R. LOONAM
DOUGLAS B. LUKE
JON B. LUNDQUIST
CORAL L. MACINTOSH
CHRISTOPHER J. MADDEN
JANET K. MAHN
JOHN M. MAJOR
RAYMOND A. MARAGE
ROBERT M. MARCUS
HOWARD L. MARSHALL, JR
JEFFREY B. MARTIN
WILLIAM D. MAXWELL, III
DONALD H. MAY
WILLIAM H. MCBRIDE, III
JOHN K. MCCOY
RICHARD A. MCLEAN
ROBERT L. MEEKER, JR
JEFFREY A. MENDONCA
PORFIRIO MENDOZA, JR
EUGENE C. MERSHELL
MICHAEL V. MILLER
SUSAN M. MILLER
SAMUEL T. MILLS
KENNETH R. MINNARD
VAUGHN V. MONROE
GEORGE T. MOODY
BILLY W. MOORE
LINDA K. MOORE
SYLVESTER MOORE
DAVID C. MUNRO
JOHN S. MURGATROYD
ARON C. MUSE
ROBERT J. MYERS
NATHAN J. NASH, JR
ELMER M. NAVARRO
DONALD H. NELSON
WILLIAM K. NESMITH
JOHN P. NEWCOMER
ROBERT E. NOVOTNY
HAROLD O. OAKLEY
SUSAN J. OLSON
RICHARD R. OSIAL
ROBERT F. OTTEN
TERRENCE R. OWEN
NEIL T. PAGE
JAMES L. PARKER
KENNETH W. PARNELL
WAYNE M. PAULETTE
WILLIAM B. PENNINGTON
ROBERT E. PERRETT
NORMAN K. PETTIS
JEROME G. PHILLIPS
JOEY D. POLLOCK
THOMAS F. PORATH
SEAN R. PRASSER
RAY G. PRESSON
TERRY W. PULLIAM
LYNN D. RADKE
TIM RAINWATER
JEFFREY S. RANDALL
JAMES E. RANDLE
JAMES J. RASMUSSEN, JR
DENNIS A. REEVES
EARL G. REID, III
CRAIG REYNOLDS
MICHAEL H. ROBERTS
WILLIAM M. ROBERTS
RICHARD W. ROBISHAW
JOHN J. RODRIGUEZ
BERNHARD C. ROEVER
DARREN M. ROGERS
JEFFREY A. ROSS
STEPHEN K. SAULS
THERESA R. SCHAUDIES
FRANCIS M. SCHNEKSER
CHARLES L. SCHULTZ
DEBORAH K. SCOTT
KENNETH E. SHARP
GARY D. SHEKELS
DENNIS W. SICKEL
CHARLES R. SIKES, JR
KEVIN S. SIMOES
MICHAEL A. SKIBA
LOUIS F. SLAUGHTER
GUY K. SMALT
JAMES SMITH
JEFFREY A. SMITH
MARK A. SMITH
DANIEL SPAGONE
RONALD SPANO
RAYMOND J. SPICUZZA, JR
RICHARD A. STAKELUM
SUSAN M. STANFIELD
ROBERT W. STANLEY
KEVIN D. STARKS
STEVEN W. STEARNS
LEE C. STEPHENS
DANIEL J. STEPHENSON
RUSTIN E. STOBER
THOMAS L. STRAUB
MATTHEW D. SWANHART
ROBERT M. SYMULESKI
JOHN D. SZATKO
PETER J. TASSEY
STANLEY E. TENNYSON
PAUL M. TERHAAR
HENRY J. M. THAXTON
JOHN D. THOMAS
PETER H. THOMAS
RUDOLPH V. TOWNSELL
JAMES H. TRAVERS
KEVIN J. TREFETHEN
ALAN P. TUPMAN
NOELITO A. VALDEZ
ROBERT A. VANHOUTEN
CLINTON J. VANMARTER
FELIX VEGATORRES
GILBERT J. VETERE
JOE S. VILLANUEVA
WILLIAM E. WALDIN
CARL A. WALKER
KEITH W. WATSON
KARL A. WEILBACHER

THOMAS W. WICKES
JOHN B. WILLIAMS
ROBERT T. WINFIELD
MARVIN W. YOUNG
MICHAEL R. ZAHN

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, SUPPLY CORPS, USN, PERMANENT

CARMEL M. BELANGER
KEVIN J. BUCHLI
CHARLES G. DECLERCK
NESSIE P. MARTIN
VINCENT L. PHIPPS
JAMES E. WATTS

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, CIVIL ENGINEER CORPS, USN, PERMANENT

JAMES E. BESSE
JAMES D. BYRNE

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LAW PROGRAM AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, LAW PROGRAM, USN, PERMANENT

GARY M. MAJOR
KEVIN D. STAMPHER