SENATE—*Thursday, March 11, 1993*

(Legislative day of Wednesday, March 3, 1993)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson. Dr. Halverson, please.

PRAYER

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

Let us pray:

And whosoever will be chief among you, let him be your servant: Even as the Son of man came not to be ministered unto, but to minister, and to give his life a ransom for many.—Matthew 20:27, 28.

Almighty God, greatness in the Kingdom of God is measured by service. This morning we pray for the many who serve the Senate without recognition or publicity and yet, without whose service, the Senate could not function. We ask Your blessing upon these faithful men and women, tireless in their efforts, selfless in their dedication, who make it possible for the Senators to do their business.

Gracious Father, let Thy blessing be upon all those who work on the floor and in the Cloakrooms. Bless the committee staffs whose work is never finished, and the office staffs who protect and support the Senators. We commend to You the food service people, the custodians, and those who maintain buildings and grounds. We pray for those who provide security—those in plain clothes and those in uniform—whose duties can be so routine and yet, at any moment, face the possibility of life at risk.

Thank You, Father in Heaven, for these faithful men and women whose greatness is their service. We pray in His name who was the Servant of servants. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, from now until 12:30 p.m. there will be a period for morning business during which Senators will be permitted to speak. At 12:30 the Senate, by previous order, will begin consideration of the nomination of Janet Reno to be Attorney General. Debate on that nomination will continue until 2:15 p.m., at which time there will be a recorded vote on the Reno nomination.

Following that vote, the Senate will return to consideration of the Voter Registration Act, which is the pending measure. My hope is that we can complete action on that bill today, or at least make good progress on it. Senators should be prepared for a lengthy session this evening in order to make progress on that bill.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the majority leader's request will be granted.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. Under the order, the majority leader controls the time until 10:30 a.m.

Mr. MITCHELL. Mr. President, I yield such time as the Senator may need to the Senator from Nevada.

The PRESIDENT pro tempore. The senior Senator from Nevada is recognized for such time as he may consume.

WHAT IS HAPPENING TO OUR SOCIETY?

Mr. REID. So there is no question about the statement that I am making, my record is pro-life. I have never made a statement on the Senate floor or on the House floor regarding this very troublesome issue, but my voting record speaks for itself.

I am here today because I am repulsed at the killing of a human being yesterday by the name of Dr. Gunn. I do not know Dr. Gunn, never would have met him. But I feel so bad for this man's family. I understand that he has two children. This man was shot down in cold blood, in the back. One report indicates the man had leg braces and was trying to leave when he was shot three times by a .38 caliber revolver, and died.

What is happening to our society? What is happening to our society, to allow acts of violence like this to take place as if they meant nothing.

I have been so impressed recently with an article written by one of our colleagues, DANIEL PATRICK MOYNIHAN, talking about violence and other things that we have come to accept. In effect his article says we have come to accept the unacceptable. We are now accepting the unacceptable.

Reading from this article that he wrote:

> Crime is a more or less continuous subject of political pronouncement, and from time to time it will be at or near the top of opinion polls as a matter of public concern. But it never gets much further than that. In the words spoken from the bench, Judge Edwin Torres of the New York State Supreme Court, Twelfth Judicial District, described how "the slaughter of the innocent marches unabated: subway riders, bodega owners, cab drivers, babies; in laundromats, at cash machines, on elevators, in hallways." In personal communication, he writes: "This numbness, this near narcoleptic state can diminish the human condition to the level of combat infantrymen, who, in protracted campaigns, can eat their battlefield rations seated on the bodies of the fallen, friend and foe alike. A society that loses its sense of outrage is doomed to extinction."

I am outraged, as I hope—as I know that most in society, if they would think for a second, would be outraged at what just took place.

This has to stop. I hope this act of violence to another human being will not be the cause of other acts of violence on this very troublesome subject. Abortion is a difficult subject. But no matter how you feel about abortion you cannot stand by and let things like this take place.

I was watching television as I was trying to do my exercises this morning and I saw there, on one of the networks, a man who represented the pro-life position indicate that during the last less than 24 hours since this man was murdered, a trust fund has been set up—not for Dr. Gunn's children, but for the man that did the murdering. Not for the person who was killed, but for the person who did the killing.

This society has to stop these terrible acts of violence. I hope pro-life and pro-choice groups, both, would understand this is not a cause for more violence. I believe something needs to be done.

I also have a record that is as good as anyone in this Chamber on labor union matters.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I vote for organized labor. I am proud of the fact that the working men and women of Nevada have supported me always. But yet over the years, the law has developed so that labor unions do not have the ability to close up businesses that they disagree with. If there is an employer-employee controversy, the courts and the law have restricted the ability of picketers to close up a business. They limit the number of pickets to so many pickets per block. There are restrictions. I believe that we have to take a look at that in regard to this. We cannot have situations that ferment violence. We cannot turn our head to a man who was killed yesterday. I hope, Mr. President, that this Congress and the American public will revile against this terrible thing that took place and say this cannot continue.

I ask that the chairman of the Education and Labor Committee and the chairman of the Judiciary Committee to take a very close look at this and look at ways to restrict the ability of violence to take place. Confrontations have to be limited. I do not have the line and verse as to how to solve the problem today; I do not serve on those two committees. But there are ways, just like with an employer-employee relationship that has gone sour, to limit confrontation.

I express to Dr. Gunn's family my sympathy and my hope and the hope of the American people that violence will lessen in this country and we will be able to get under control this plague that is sweeping the Nation.

I suggest the absence of a quorum.

Mr. BURNS addressed the Chair.

Mr. REID. I apologize. I withdraw that. I did not see the other Senator in the Chamber.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS].

Mr. BURNS. Mr. President, I understand there has been an hour set aside for leader's time on the discussion of health care and economic issues this morning. I ask unanimous consent to speak as in morning business but this time not be charged against the leader's time.

The PRESIDENT pro tempore. The Chair hearing no objection, the request is granted and the Senator from Montana [Mr. BURNS] is recognized for how much time?

Mr. BURNS. It will be less than 5 minutes.

The PRESIDENT pro tempore. For not to exceed 5 minutes.

LOCAL EXCHANGE INFRASTRUCTURE AND MODERNIZATION ACT

Mr. BURNS. Mr. President, I am pleased to join with my colleagues, Senator GRASSLEY of Iowa and Senator EXON of Nebraska, who will be introducing legislation later today called the Local Exchange Infrastructure and Modernization Act of 1993.

In recent years, issues have come about in telecommunications as to what we are trying to do in order to spur some new technology into rural America and also into our inner cities. This is just another step in that direction. In order to assure that all Americans have access to enhanced telecommunications services, local exchange carriers must have the capabilities to provide these services. But these new services require additional switching and transmission requirements and additional intelligence that, frankly, many telephone companies simply do not have the financial capability to provide.

Small telephone companies, especially those in rural areas like the State of Montana, fear that the doors to advanced telecommunications services will be closed on them and that they will not be able to serve their communities as adequately as they would like.

The answer to this situation is infrastructure sharing. This piece of legislation does do that. Infrastructure sharing will make it possible for telephone companies that are economically unable to invest in state-of-the-art switching and transmission equipment to use the enhanced infrastructure of a neighboring telephone company. So infrastructure sharing has strong support from small- and mid-size telephone companies who understand that without the ability to tap into an advanced infrastructure, their company will not remain viable in a changing telecommunications market.

A recent report by an economist at the University of Montana hits the nail on the head. The report states that there is an agreement that modern telecommunications infrastructure is necessary for rural economic development. Without modern communication links with the rest of the United States and, yes, with the rest of the world, rural areas will become economically isolated and they will also be economically disadvantaged. That is what we have to be very careful of as we start down this business of this country trying to jump start the economy.

I want to join Senator GRASSLEY and Senator EXON as a cosponsor of this legislation which will be introduced later on today.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I have sought recognition in the absence of any other Senator seeking recognition. Just as I start to do so, I notice my distinguished colleague from Iowa, Senator HARKIN, chairman of the Subcommittee on Labor, Health, and Human Services of the Appropriations Committee, as the Presiding Officer, the President pro tempore, is well aware, has come to the floor. So I shall speak only for a few minutes.

The PRESIDENT pro tempore. If the Senator will allow the Chair, tne Chair would observe that under the order previously entered, the majority leader has control of the time until 10:30 a.m. If the Senator wishes, he may ask unanimous consent that the Senator be given 5 minutes not to be charged against the majority leader's time.

Mr. SPECTER. I will do that, Mr. President. I ask unanimous consent I may be permitted to speak for 5 minutes.

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

Mr. SPECTER. It is my understanding that the Republican side of the aisle has the period from 10:30 to 11:30. So that time might be appropriately used, I intend to stay and speak during that time.

HEALTH CARE

Mr. SPECTER. Mr. President, I am glad to see there has been a reservation of time this morning for both the Democratic side and Republican side to speak on the issue of health care, because I believe there ought to be a sharper focus on the issue than there is. And that will take some doing because health care is on everyone's mind and on everyone's agenda.

The President has empowered the First Lady to preside over a committee to produce health care legislation with a target date of May 1. There has been a Republican task force under the direction and the chairmanship of Senator CHAFEE. I came to the Chamber about 9:40 this morning because we were meeting from 8:30 until that time. But I submit that there ought to be a sharper focus, that it is really in the national interest to see legislation on health care brought to the Senate floor at the earliest date.

It would be my hope, Mr. President, that this might even be done in advance of May 1. I say that because of the serious problems confronting us on this subject.

Last July 29, this Senator proposed an amendment concerning health care reform consisting of legislation then pending, on the energy bill. The majority leader came to the floor and made the statement that the amendment on health care did not belong on an energy bill. I replied that I agreed; I would be glad to withdraw the amendment if we had a date certain for health care.

The majority leader responded that that was not possible. I reminded the

majority leader a date certain had been set at September 8 on product liability, and health care was just as important, perhaps more so, than product liability, and that I would be prepared to withdraw my amendment if we could have a date certain.

The majority leader, in the exercise of his discretion and discharge of his business in setting the calendar, said he thought that not doable, and I proceeded with the amendment. And principally along party lines, it was defeated.

On January 21, the first legislative day for the Senate, this Senator introduced a comprehensive bill on health care, S. 18, the product of a great deal of work combining some concepts of managed competition with an emphasis on primary and preventive care, programs designed specifically to deal with low birthweight babies, issues involving consumer protection on disclosure of information, and legislation directed at dealing with terminal health costs, where so many people spend so much money in the last few days, few weeks, few months of their lifetime. The later proposal was put forward on the proposition that no one should decide for a competent adult how much health care they should have.

I noted at that time, the day after the President's inaugural speech—I complimented the President on a speech which was delivered with flare and style—that I had hoped there would have been some substance as to the economic recovery program and health care reform.

Mr. President, I am concerned that we are not now following a schedule which will get health care to the American people this year. A week ago Sunday, the majority leader appeared on "Face the Nation" and said that he thought we could enact health care reform legislation this year. But in the context of his comments, listening to the music rather than the specific words, I have a concern that that would not happen. I have noticed that the distinguished chairman of the Ways and Means Committee, Congressman ROSTENKOWSKI, was quoted in the press as saying he thought health care reform was unlikely to be delivered this year because of the complexity of the subject.

Mr. President, it is my view that we have enough health care bills now pending before the Senate and that it would be in the public interest to bring up one of those bills. And I would suggest S. 18, a bill on which I have requested the chairman of the Committee on Labor and Human Resources to hold hearings, but perhaps hearings are unnecessary. We have been debating health care and many ramifications of it for years. The majority leader on "Face the Nation" a week ago Sunday noted, as I recollect, that he had been working on the issue for some 6 years.

My preference, Mr. President, would be to see a bill come to the floor, and we deal with it as we dealt with the Clean Air Act of 1990, where the legislation was pending on the floor, various task forces were organized, they deliberated, and we moved ahead with the bill; perhaps it was not a perfect bill, but I think a bill which certainly advanced the cause of clean air.

I know that as a Senator I have the right at any time to introduce health care legislation. I could offer S. 18 as an amendment to the pending motor-voter bill, but I have been reluctant to do that up to this time. But it is something that this Senator is considering.

I do look forward to the statements made by my distinguished colleagues on the other side of the aisle, and when our time comes at the 10:30 or 10:35 mark, I shall be prepared to supplement these remarks.

I thank my colleague, Senator HARKIN, for his courtesy in allowing me to proceed.

I thank the Chair and yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. I ask unanimous consent that I be allowed to speak for up to 10 minutes.

The PRESIDENT pro tempore. The Chair hears no objection. The Senator is recognized for not to exceed 10 minutes.

HEALTH CARE

RURAL HEALTH CARE—HILLARY CLINTON VISIT

Mr. HARKIN. Mr. President, 4 days from today, on March 15, I will be traveling to Ankeny, IA, with First Lady Hillary Clinton for a forum on health care reform, which will emphasize the health-care needs of rural Americans.

This is one of only four such forums being held around the country—the other three are in Tampa, FL; Dearborn, MI, and here in Washington, DC. As you know, Mr. President, one of President Clinton's first, and I believe strongest, appointments was his naming of Mrs. Clinton to chair the White House health care task force. And we look forward to her visit.

Iowa is blessed with some of the finest health care services and research facilities in the world, and I am proud that Mrs. Clinton has chosen to include the views of Iowans as an integral part of national health care reform.

Mr. President, Iowa is also the only rural State that Mrs. Clinton is visiting. And as cochair of the Senate rural health caucus, I am encouraged that this visit is a reflection of the administration's commitment to include rural America in any health care reform package we undertake.

Everybody agrees that health care reform is one of the top priorities of the White House and the 103d Congress.

The statements made by my distinguished colleague and friend from Pennsylvania I agree with. We must be about this sooner rather than later.

And the big question on everybody's mind is, "How do we extend coverage to all Americans while cutting the high cost of health care." That is the $930 billion question.

But in rural America, the problems run much deeper than that.

And before we go out to Iowa, I want to take a few minutes today to talk about some of the unique health-care needs of rural America.

In baseball, Mr. President, they talk about a triple crown. Not many players have won it. It is pretty rare.

Well, in rural America, we have our own version of the triple crown—but it is nothing to celebrate. Rural Americans are more often poor, more often uninsured, and more often without access to health care than any other Americans. It is a rare combination of chronic illness and occupational hazards that places rural Americans in triple jeopardy—and increases the need for preventive measures.

Over the last decade, health care costs for the average family in Iowa has risen 245 percent faster than wages.

Businesses, on average, pay 167 percent more for health coverage today than they did 10 years ago—and it is expected to reach 394 percent more by the year 2000.

Today, 200,000 Iowans—nearly 10 percent of the nonelderly population—have no health insurance of any kind.

We have felt the sting of the health care crisis and experienced all the problems that go along with it. But it is cut deeper in rural America—because we have many problems that cities and suburbs do not have to deal with.

For starters, many people who have coverage cannot find a doctor. It is not out of the ordinary for a person in rural America to travel 100 miles to see a doctor.

In the small town I grew up in, in Iowa, there were not any doctors, any dentists, or any nurses. The nearest hospital was many miles away. If you were lucky enough to get an ambulance, it had to travel over dirt roads and through bad weather just to get to our town.

In a city, if a hospital closes, chances are, there is another hospital nearby that people can go to. In rural Iowa, if a health center closes, there may not be another one within 100 miles.

In Iowa today, two counties have either no doctor or fewer than one doctor per 5,000 people.

Eighteen counties now have no doctors who deliver babies, and an additional 14 have only one doctor in the county. Imagine your wife or daughter going into labor and having to travel two counties over just to have the baby delivered—hoping all along that the one doctor in the next county does not have the day off.

In addition, almost one-third of Iowa's rural counties have no local services for prenatal care.

And less than 50 percent of all 2-year olds are fully immunized.

This year over 170 Iowa communities are seeking a physician—many want more than one. But Iowa will graduate and/or import less than one-quarter that number, and even less in rural areas where the need is greatest. Not to mention the fact that 20 percent of our doctors are within 5 years of retirement age.

And the doctors who do choose to practice in rural areas are often overworked and underpaid. Over the past decade, big-city primary care physicians have seen an average real-dollar increase of 30–35 percent. During that same time period, Iowa primary care physicians actually noticed a decrease of around 7 percent.

And many rural physicians are demoralized. Three weeks ago, I held a rural health care hearing in Cedar Rapids, IA. One doctor told me about a study by the Mayo clinic who said:

> As Mayo began the study of rural family practice, they discovered that urban academic specialists have, at times, been overly critical in making highminded comparisons between specialists with 8 hours sleep, high technology, and expert back-up—compared to a solo rural family physician, seeing 50 patients a day, and 20 patients at night with no support at all.

No wonder it is so hard to attract doctors to rural America. My hat is off to anybody who would want to work under those conditions.

Mr. President, I have met many, many doctors in rural Iowa. They are young, they are full of spirit, they come there, graduated from medical school, want to get into family practice. They have brought their young wives usually, starting a family in a small community. They start in practice and from early morning till late at night they work every day. They are on call on Saturdays. They are on call on Sundays. I have seen the burnout happen. They are there 1 year, 2, 3 years, and finally the wife probably usually says to the husband—or it happens to be the other way around. I have seen it where the woman was the doctor—the spouse says, "That is enough. We cannot handle this anymore." They pack up and they move on. Quite frankly, I cannot blame them. it is hard to work under those conditions.

But, Mr. President, you have to understand—this is more than just a health issue. It is an economic issue as well.

Agriculture is Iowa's largest employer—but health care runs a close second. In many communities, hospitals, dentists, and pharmacists are often the primary employer. Some economists have found that $1 in payroll creates $7 in the community.

To many rural communities, having a hospital means physician retention, economic stability, and a strong draw for business and citizens into the area. For nurses, social workers, therapists, and adjunct caregivers, it means a job. For public health nurses, clinics, and physicians, the hospital is a place to refer patients for acute care. And for elderly citizens, it is a place to get care without the burden of leaving friends, family, and home.

But if you shut down the local hospital, many times the doctor's office goes, the pharmacy goes, the nursing home goes, and so does the local economy. It is a domino effect that is killing rural America.

But since 1985, five rural hospitals in Iowa have closed. Today, 60 percent of our rural hospitals are in duress and frankly, 30 percent are in the red. Costs are increasing 7 to 8 percent per year without corresponding revenue.

And they cannot cost-shift any further—they have to deal with overpriced medical supplies, pharmaceuticals, and ineffective regulatory controls just like everyone else.

The funding problems rural hospitals face are often different because rural America is home to a disproportionately large segment of older citizens who often require long-term care for their illnesses and disabilities.

Iowa is second only to Florida in the percentage of citizens over the age of 65, and we are first in the number of citizens over 85. In some of these communities, like the town of Cresco—the biggest town in Howard County—nearly 50 percent of the citizens are over the age of 65.

This means a smaller tax base for a country infrastructure and a higher demand for services. It also means more hospitals depend on Medicare to stay alive and to stay open.

In Iowa today, 35 of our 99 rural hospitals are dependent on Medicare. Between 60 and 80 percent of the patients in rural hospitals are Medicare patients. As you can imagine, Medicare cuts and freezes affect our rural hospitals more than their counterparts in other sectors of the economy.

Decreasing Medicare dollars to the State of Iowa is only third to decreasing agricultural subsidies and Social Security in terms of economic impact. In fact, Mr. President, it has been said in Iowa that the health care crisis of this decade is really our agricultural crisis that we had over the last decade.

Medicare is one of the few ways that Iowa gets a return for the tax dollars we send to Washington. This situation is not helped by the fact that most Iowans—thousands of Iowans—are farmers, which is the most hazardous occupation in America. We all remember the young boy in North Dakota last year who had both arms severed by a farm machine. Sadly, in 1991, 470 Iowa children were injured, and 10 were killed in farm accidents.

Rural America is not immune from the social illnesses of modern society. We keep seeing an increased need for mental health services to deal with needed alcohol and drug treatment, not to mention a significantly higher rate of suicide in rural America. Worst of all is the high cost for health care faced by farm families. They actually pay twice as much for health coverage, because farmers are self employed. They have to pay both the employer and employee share.

The higher costs have forced many wives to leave the farm and find outside jobs just to get health insurance. One farm family of seven from Denison, IA, who the First Lady may meet on Monday, has a 21-year-old son who was born deaf and later paralyzed from the waist down in a farm accident. They were told that their medical coverage would increase from $8,000 to $14,000 a year. So they had to reduce their overall coverage. Now their son is covered as a dependent under a separate plan at only $2,000 a year. They are worried that once he is not a dependent, he will not be able to get coverage, which is probably true.

That is just one story, but there are millions more like it. These are just some of the unique problems we have in health care in rural America. I hope we will address them on Monday.

Keep in mind, Mr. President, that among all of the rural States, Iowa, States like the State of West Virginia, and others that are rural, cannot be forgotten in this health care crisis. We have to tackle this problem, the health care problem, in America. But again, we cannot forget rural America and the unique problems that we have in rural America. Again, I believe the fact that one of these four forums is dedicated to rural health reflects the administration's commitment to make rural health part of any health reform package.

I am encouraged by the First Lady's visit Monday, because I think it is the first step to real change for rural Americans.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. What is the will of the Senate?

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

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

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

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

Mr. BREAUX. I ask unanimous consent that I may speak as in morning business.

The PRESIDENT pro tempore. For how much time?

Mr. BREAUX. Not to exceed 7 minutes.

The PRESIDENT pro tempore. Without objection, the Senator from Louisiana [Mr. BREAUX] is recognized for not to exceed 7 minutes.

HILLARY CLINTON'S VISIT TO NEW ORLEANS

Mr. BREAUX. Mr. President, I take this time to inform Members of the

Senate, and also others who may be listening, of a very interesting and very informative meeting that I had an opportunity to participate in this past week in my home State of Louisiana.

I accompanied Mrs. Hillary Clinton, along with our senior Senator, Senator J. BENNETT JOHNSTON, along also with one of our distinguished House Members, Congressman BILL JEFFERSON, who sits on the Ways and Means Committee, to New Orleans, LA, to conduct a briefing and a hearing on health care reform. The White House, under her leadership, is soliciting comments and suggestions, hearing people tell their stories about the difficulties they are experiencing with health care. The hearing was called at a company called Glazer Steel, which has about 100 employees. What we learned in that meeting I think was very interesting and very informative.

Every one of those individuals who worked in that company that we met with were full-time working Americans. They work every day. They follow the law. They obey the law. They take care of their families the best they possibly can. While all these men and women had full-time jobs, some of which had been working in that same job for 15, 20, 29 years, working on a full-time basis in that job, not a single one of those individuals was able to afford health insurance. None of them had even the rudimentary forms of health insurance to take care of themselves, their families, and their children.

I think, Mr. President, what we are learning is not atypical. It is unfortunately more commonplace than all of us would like to admit.

As an example, the health premium for that individual company in Louisiana between 1985 and 1986, one year, it went up 136 percent for a family and 230 percent for an individual. Between 1985 and 1992, the cost of their health insurance plan went up 405 percent for a family and 559 percent for an individual.

It is no wonder why only 12 individuals in that company's employment are able to participate in the company's insurance plan. The vast majority do not.

Of the stories we heard from people who had no health insurance—which I think were all too typical of the situation in America today—one female employee, for instance, who had been there most of her working life on that job, told a story of going to the doctor for a checkup following a finding by the doctor of a mass in her breast. When the doctor asked her whether she had insurance to take care of any additional tests, the lady said no, she did not. The doctor merely told her: "Come back next year, and we will see how you are doing then."

Mrs. Clinton asked that individual what was she doing, and the lady said she was praying a lot and hoping that nothing further will develop.

Mr. President, this story was far too typical, I am afraid, of many individuals in this country in the situation they find themselves in when they talk about health care. Every one of these people were workers; every one had a full-time job; every one of them was making anywhere between, $19,000, $20,000, $22,000, to $25,000. They were hardworking people, but they did not know where to go to take care of themselves.

I think, Mr. President, that Mrs. Clinton is having a very positive effect on the issue, as the struggles to make a recommendation to the President on what needs to be done.

Mr. President, I would like to make a comment or two about the concept of the managed competition approach to health care, that I support, in an effort to provide quality health care, but also in an effort to control cost.

Individuals who do not share my opinion on what managed competition can do call it an untested theory that only has been considered in theory but never in practice. I do not agree with that. It is not an untested theory. In fact, elements of management competition already exist in some parts of our country. While none of them contain all of the elements of a true managed competition plan, and none of them are exactly like a managed competition plan would work, many of these plans contain elements of managed competition that in fact are working.

One example is the California Public Employees Retirement System, called CalPERS, which covers 900,000 public employees and retired public employees in the State of California. Individuals who are covered by this managed competition type of health plan have a choice of 22 different coverage options, as well as one self-funded preferred provider organization.

The system has been in place since 1962, but about 3 years ago, it really started showing some real success. In that period of time, premium increases have fallen from 17 percent annually to a 1.5-percent increase this year. I think this is phenomenal compared to growth in regular private-sector employer-provided insurance premiums, which have gone up 15 to 20 percent each year for the last 4 years.

What we see with the California system I think is real progress. CalPERS has been successful in bringing down the rate of premium increases to half the rate of inflation in the overall economy because the number of employees who buy insurance through this system makes up a large pool with substantial purchasing power that can be used—and, in fact, is being used—to negotiate lower prices.

Managed competition does the same thing. It pools individuals and employees of small- to medium-sized businesses into even larger purchasing pools than what exists under the California system. In the terminology of the current health care debate, these purchasing pools are called health plan purchasing cooperatives, or HPPC's. The ability of these HPPC's to negotiate on behalf of the consumers would be compounded due to their larger size and the clout that would go with them.

Also, Mr. President, this CalPERS system in California gives consumers a real financial incentive to select the most cost-effective plan by basing employer premium contributions on the cost of the lowest-based price plan that contracts with CalPERS. Managed competition would employ a very similar incentive to the one that is in effect in California. It would effectively cap an employer's exclusion from Federal taxation of the cost of employer-provided health benefits at the cost of the lowest-priced plan in a given geographic area.

Obviously, when a company knows that they can deduct 100 percent of the cost of their health plan, there is less of an incentive to get the least expensive plan.

Finally, Mr. President, CalPERS imposes general standards on health benefit plans and regulates marketing activity. Thus, it is able to actively foster competition on the basis of price and on the basis of quality. Managed competition would require that all plans offer a uniform, comprehensive package of benefits and also would require health plans to provide uniform data on outcomes and consumer satisfaction that would measure the quality of the services provided to the customer so that the purchasing customer can see the value that he is purchasing and also can determine the effectiveness of the various plans that he may choose from. Thus, managed competition would give individuals each more information and a completely standardized product, thereby giving them greater ability to choose the best plan, the one with the best price and the highest quality for their particular needs.

Mr. President, the CalPERS system in California is not a complete managed competition model. No one, I think, ever argues it is. In fact, the people who run CalPERS have identified some changes in their policies which would give them even more control over costs, changes that are part of the basic framework of managed competition. For example, Stanford Prof. Alain Enthoven, the chairman of the Health Benefits Advisory Council of CalPERS, noted that the public employees retirement system's achievement was all the more impressive because consumer premium price sensitivity, an essential component of managed competition, has not yet been fully phased in.

Mr. President, he is saying that when it is fully phased in, there will be even greater benefits.

As I described earlier, a true managed competition system would fully inform employees of the cost of their health plan by effectively capping the deductibility of employer-provided health benefits at the cost of the lowest-priced plan available in a given area so long, of course, as that plan meets quality standards.

I am glad to see that there is a healthy degree of skepticism on the part of people involved in the health care debate. I think that is good. I think it will ultimately produce a better product. I also think managed competition has a lot to offer, and needs to be better understood. Its essential concepts are based on common sense and the well-proven experience of free and competitive marketplace economics.

Mr. President, I ask unanimous consent to print in the RECORD a policy brief from the Progressive Policy Institute, which is entitled "How Managed Competition Controls Costs: The CalPERS Experience."

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

PROGRESSIVE POLICY INSTITUTE SAYS CALPERS STUDY PROVES MANAGED COMPETITION CUTS HEALTH CARE COSTS

WASHINGTON, D.C.—The California Public Employees Retirement System (CALPERS), which recently published health care premiums below the rate of inflation, provides strong proof that managed competition reduces health care costs, according to a policy brief issued today by the Progressive Policy Institute (PPI).

CALPERS reported that it will hold health care premium increases to 1.5 percent in 1993, compared to 12 percent average increase nationwide and well below the 3 percent inflation, according the policy brief written by Jeremy Rosner, former PPI vice president for domestic policy and Ray LaRaja, PPI policy analyst.

"Contrary to claims that managed competition in health care is untested theory, the CALPERS experience provides compelling evidence that competition produces real health care savings while ensuring accessible, secure, high quality health care for nearly one million California public employees, retirees and their dependents," said PPI President Will Marshall.

The PPI's plan for managed competition in health care is elaborated in its new book, Mandate for Change,which calls for market-based reform that minimizing bureaucracy and creates competition on the basis of price and quality.

On the heels of a 6.1 percent rise in 1992, this cost-control breakthrough marks the second year in a row that CALPERS has held medical cost inflation to single digits for its 887,000 members and dependents. The two-year CALPERS increase of 7.6 percent was achieved while nationally health care costs soared 30 percent.

Under the CALPERS program, none of its participating health care plans may deny a consumer coverage or charge higher prices based on past or current health problems.

CALPERS administrators attributed the program's success to aggressive negotiations as a "health insurance purchasing cooperative" and believe this approach may offer significant benefit to both the public and private sectors around the country.

CALPERS no longer pays list price for health care. By demanding cost and performance data, consumers are better informed and the company does comparison shopping before it writes the check for its health care costs.

HOW MANAGED COMPETITION CONTROLS COSTS: THE CALPERS EXPERIENCE

(By Ray LaRaja and Jeremy Rosner)

The Clinton Administration is now moving to complete a comprehensive health care reform proposal for the nation. Throughout the presidential campaign, candidate Clinton stressed the need for an approach to reform known as managed competition. Managed competition is premised on the belief that well-structured consumer choice among health plans can improve health quality and control costs more powerfully and less bureaucratically than government price controls. Critics of this idea often argue that managed competition is an untested theory, an idea that looks good on paper but has never been tried. For example, Congressman Pete Stark (D–CA) recently stated, "managed competition is to health care what the Laffer curve was to economics: a hope and a prayer and an untested theory."[1]

But managed competition has a proven track record. An excellent managed competition system—one that has controlled the rise in health care premiums while ensuring accessible, secure, high quality health care—exists for nearly one million California public employees, retirees, and their dependents. The system is called CALPERS (California Public Employees' Retirement System). New rates announced by CALPERS show that a system of managed competition has been able to hold premiums below the general rate of inflation. In addition, none of the plans that participate in CALPERS can deny any consumer coverage or charge higher consumer prices because of past or current health problems.

On February 17, the CALPERS Governing Board approved its new rates for premiums covering the year beginning in August 1993. Overall, they average only 1.5 percent higher than last year's rates, an increase significantly below the rate of general inflation, which is 3.0 percent.[2] By contrast, health care premiums nationwide are expected to soar 10 to 14 percent in 1993. By keeping rate increases small, over the past two years CALPERS saved its beneficiaries $178 million—the additional amount they would have paid had CALPERS rates kept pace with the national average.

Equally significant, CALPERS accomplished its performance with minimal bureaucracy. Only 20 employees are needed to administer a program for almost one million beneficiaries. Medicare, by contrast, requires 89 public employees for every million beneficiaries to run its price-controlled system.

MANAGED COMPETITION

Managed competition is a creative approach to using market forces rather than government-set price controls to restrain health care costs, improve quality, and increase consumer choice among health plans.[3] The system works by changing the market's ground rules to help decentralize decision-making, spur innovation, reward efficiency, and respect personal choice. This model of reform, first developed by Alain C. Enthoven, Paul Ellwood, and other members of the "Jackson Hole Group," strengthens the argument for universal coverage because markets will be more efficient if everyone is included in the system. While many versions of managed competition have been proposed, most include the following provisions:

"Reliance on consumer choice in well-structured markets rather than on public regulation of health prices and volume of procedures to control costs;

"Reliance on private health coverage rather than on expanded public programs (such as Medicaid) to achieve universal health care coverage;

"Tax reform, regarding the treatment of employer provided health benefits, to make government subsidies more progressive and less inflationary;

"Better incentives and information to help providers focus on the health care plans that give the greatest value to the consumer."

The mechanism for establishing managed competition is much like that which exists under the CALPERS system. An organization such as CALPERS acts as the intermediary (a health insurance purchasing cooperative, or HIPC) through which consumers in a given region purchase a standardized (and probably comprehensive) package of benefits. HIPCs could be quasi-public entities, non-profits or some other form of private organization. They would contract with a variety of competing private health plans, each of which would name a price at which it would agree to accept and serve any consumer for a full year. The HIPCs would then present this full range of private health plans to their customers who each could choose his or her preferred plan.

Each year during open enrollment, the HIPCs would provide their customers with materials that describe the participating plans and their performance, and act as the sole point of direct marketing allowed between insurers and consumers. All plans competing through the HIPCs would also agree to collect and report data on medical outcomes and consumer satisfaction so consumers could better decide which plans were delivering value for the money. Many types of health plans could offer coverage through the HIPCs—from Health Maintenance Organizations (HMOs), to physician networks, to plans that resemble current "fee-for-service" insurance; but all would have to agree to take any consumer, at their advertised rate, for a full year's coverage.

This approach stands in contrast to those that would rely on setting price and volume controls throughout the private health care economy. Such an approach currently exists under Medicare: the Health Care Financing Administration sets prices for thousands of hospital physician procedures. Medicare also tries to control the volume of procedures performed in an effort to prevent doctors from compensating for lower fees simply by performing more procedures. Some reformers now suggest that this Medicare model should be extended to the rest of the health care economy even though, under the Medicare system, costs are projected to increase at double digit rates for the foreseeable future.[4]

HOW MANAGED COMPETITION WORKS FOR THE CONSUMER

Managed competition is a distinctly pro-consumer reform. It offers consumers an unrestricted choice among many health plans, none of which can reject potentially sicker consumers or charge them higher prices. An employer no longer decides in which plan to enroll all its employees. Instead, the company pays its portion of the health care premium to a local HIPC, such as CALPERS,

which in turn negotiates among several health care plans. The consumers are then permitted to choose among the various health care plans under contract with the HIPC.

Consider Mr. Smith, an employee of a firm with 50 employees. He and his family currently have no choice among health plans; his firm offers one insurance plan and pays half his premium. Under managed competition, by contrast, Mr. Smith can choose among a half dozen private health plans through a HIPC, and none of the plans can refuse to cover him for any reason.

Once a year, during an open enrollment period, the HIPC sends the Smith family a booklet that describes the health plans and their prices negotiated by the HIPC for the year. The booklet describes each plan, its participating doctors and hospitals, and its other resources. Each plan offers an identical standardized package of benefits (although some may also offer supplemental services at added cost). If the Smith family chooses to enroll in a plan that charges more for the standardized package of benefits than the lowest cost plan (the lowest cost plan represents the maximum amount his employer is willing to contribute in health benefits), the family pays the full difference in costs between the lowest cost package and the higher cost package. Thus, the family has an incentive to choose the most efficient provider of the standardized benefit package. Because they are all required to provide the same benefit plan, providers are compelled to compete on the basis of price (by offering low premiums) and quality (by providing the best health care outcomes).

The money Mr. Smith's employer was previously spending on health benefits is now paid to the HIPC, and stays the same regardless of which health plan the Smith family chooses. In order to ensure that Mr. Smith's company doesn't make a contribution to his health plan that exceeds the price of the lowest-cost plan (which would then leave Mr. Smith no incentive to choose the least expensive plan) the current tax treatment for employer provided benefits would be reformed.[5]

In summary, under managed competition:

Private sector health plans are given strong incentives to lower prices as much as possible in order to attract enrollees, while keeping quality as high as possible in order not to lose current enrollees or discourage potential enrollees. Under the current health care system, by contrast, many consumers have no annual choice of health plans or, if they do have a choice, they have little awareness of plans' prices and no information about the quality those plans produce.

"No plan can reject any consumer for coverage based on current health status or past conditions. In the current health insurance market, insurers often reject coverage for individuals or small businesses if these consumers have some pre-existing medical problem.

"No insurance plan can boost a firm's rates simply because one of its employees incurred a major expense in the previous year. In the current health market, by contrast, this is a common practice among insurers.

"Insurers, because they accept a fixed-price for each enrollee for the year (a capitated payment), have a strong incentive to negotiate aggressively with participating doctors and hospitals to limit the prices they will pay for specific procedures. In the current health care market—dominated by 'fee-for-service' medicine—insurers have limited ability and incentive to negotiate aggressively with doctors and hospitals."

CALPERS LEADS THE WAY

Congressman Stark is not the only critic of managed competition who claims it is merely an abstract theory. For example, Karen Davis, an ex-Carter official and Executive Vice-President of New York's Commonwealth Fund, recently argued regarding managed competition, "the nation [cannot] afford to rely on an untested approach."[6]

Despite the claims of its critics, millions of Americans already receive their health care through systems that incorporate many features of managed competition. The health benefits program under CALPERS (California Public Employees' Retirement System) is one of the most important. CALPERS, in essence, acts as a health care purchasing cooperative. It has offered its beneficiaries a multiple choice among competing private health plans since the mid-sixties, and in the past three years has adopted other important features of managed competition. CALPERS negotiates agreements with almost two dozen private health care plans, handles premiums totaling $1.4 billion each year and provides coverage for more than 887,000 public employees, retirees, and their dependents.

CALPERS not only covers state employees but also offers its services to employees of almost any public agency in California. As a result of this provision, employees in what are essentially small businesses—for example, the two employees of the Antelope Valley Mosquito Abatement District—are able to enjoy the same low health care prices as the 626,000 employees of the State of California. Moreover, no CALPERS enrollee, whether part of a small or large unit, can be forced to pay higher rates or rejected by a plan because of current health status or past medical conditions. Thus, insurers cannot "risk skim"—that is, enroll healthier segments of the population to ensure higher profits.

Each December, health plans participating in CALPERS submit proposed premiums to the CALPERS staff. The staff then conducts confidential negotiations with each plan over the next month. In February, final premiums are announced for the subsequent year of coverage beginning August 1. During May there is an open enrollment period during which consumers can shop for new plans based on the newly-negotiated rates and supplemental benefit choices.

Over the past two years, two changes to CALPERS's system moved it closer to the ideal of managed competition. First, the state's health benefit contribution to its employees changed to a level which approximates the price of lowest cost health plan in the system. In the past, the state's contribution to employees' plans equaled 100 percent of the average of the four largest plans in the system, a formula that destroys enrollees' incentives to choose cheaper plans or for plans to offer lower rates.

For example, in the 1990–91 coverage year, the state's monthly contribution for individual coverage was $157; thus, when plans offered a premium at something less than this, few employees had the incentive to choose lower-cost coverage. But then in 1991, prompted in large part by the state's budget crisis, the state negotiated with its public employees to freeze the level of the state's health benefit contributions for three years. At the end of this period the state's contribution is expected to approach the amount of the lowest cost plan in the system. At this point, individuals choosing a higher cost plan will have to pay the difference; but if they choose a lower-cost plan, they will also pocket the full savings.

The second important change was CALPERS's effort to standardize the benefit package across all HMOs for basic coverage. CALPERS's staff worked closely with various constituent groups and health providers to develop a standard benefit design that would not reduce the scope of benefits currently available. Standardizing a benefit package is important for two reasons. First, it enables consumers to shop for plans on the basis of prices more effectively.[7] Prior to this change, CALPERS had to provide its customers with a two by three foot chart containing a graphic display of 1,110 cells showing the various limitations, co-pays, and exclusions among 22 health plans.[8] This degree of complexity made it virtually impossible for consumers to compare plans. It also had the likely impact that many consumers would think low-cost plans likely lacked some essential service—they would worry about encountering "airpockets" or "swiss cheese" coverage when they became sick.

The other problem, according to CALPERS staff, was that the degree of variation among plans made it difficult for CALPERS to negotiate premiums. Often during negotiations, when CALPERS challenged prices, the response from various health care plans was: "we cover areas that the others don't." Without a uniform definition of a basic benefit package it is difficult for a purchasing cooperative to negotiate effectively.

In response to this problem, CALPERS decided to use its leverage to negotiate a standardized benefit package with all providers. It began by imposing a benefit freeze two years ago, in preparation for last year's negotiations for rate renewal. This at least prevented providers from changing their benefit configurations from year to year. During the next year staff reviewed existing definitions and identified the most comprehensive benefits packages among the plans for a model of what the CALPERS package should look like. Despite fears among some state employees' unions that a standardized benefit package would mean a reduction in benefits, the process actually resulted in broader, more comprehensive benefits than previously existed under most plans. To meet the new standards, eight plans reduced their co-pay charges for drugs and physician visits, four plans expanded coverage for substance abuse services, nine plans expanded coverage for skilled nursing facility care, and nine plans broadened hospice care.[9]

KEEPING PREMIUMS DOWN

As CALPERS put these changes into effect, it demonstrated that managed competition has an impressive ability to control costs. At a time of skyrocketing health care costs, CALPERS will be lowering its premiums by almost two percent in real (that is, inflation-adjusted) dollars. If CALPERS rates had increased at the national rate of premium increases of 30 percent over the last two years, its beneficiaries would be paying an additional $178 million.[10]

[Dollar amounts in millions]

	CALPERS rate increase	CALPERS gross premiums	National rate increase	CALPERS avoided cost
1992–93	1.5	$1,400	14.0	$108
1991–92	6.1	1,300	16.0	70

Source: CALPERS Health Plan Administration Division.

The role of HIPC's

Part of the reduction in premiums achieved by CALPERS occurs during the negotiations with health plans that takes place between December and February. One of the

key questions about managed competition is whether to make HIPCs "weak" or "strong"—that is, whether to give HIPCs such powers as the ability to contract selectively with only a subset of plans within a region, or to impose sanctions on plans that insist on price increases that are seen as unreasonable. On such questions, CALPERS is a relatively strong HIPC—it can contract selectively with individual plans, negotiate between the initial submission of bids and the final prices, and impose certain sanctions on participating plans.

For example, when Kaiser Permanente, the giant of its health care plans, attempted to raise premiums by more than 10 percent last year, CALPERS mandated a freeze on future enrollment of CALPERS members in Kaiser. As one executive of another major carrier put it, "That served as an example that CALPERS meant business." Partly in response to these actions, this year Kaiser decreased its premiums by 2.2 percent and 3.3 percent in Northern and Southern California, respectively.[11]

Under a national plan for managed competition, HIPCs such as CALPERS would be established in every state. The results from CALPERS' experience suggest that strong HIPCs can exert strong pressure to keep prices down.

It is also significant that the price gap between the highest and lowest cost plans has been steadily decreasing over the last several years. A narrowing spread in rates is one indication that plans are competing on the basis of value and suggests that real resource savings are being achieved. In one area of Southern California where 10 HMOs were providing health care to CALPERS' members, the difference between the lowest and highest family monthly premium was 14.5 percent during the 1991–92 coverage year even though these plans contracted with the same provider networks and hospitals, and provided care to virtually the same demographic mix of members. By leveling the playing field through a standard benefit package, CALPERS forced the plans to compete on the basis of price. As a result the difference between the lowest and highest premiums in this area is now close to nine percent.

OTHER ADVANTAGES OF CALPERS AND MANAGED COMPETITION

In addition to cost control and savings for its beneficiaries, managed competition systems such as CALPERS have other important advantages. The first involves minimizing bureaucracy. The entire system requires only 20 employees to administer (this does not include personnel who simply enroll CALPERS beneficiaries). The total administrative cost to the system is $7 million which reflects only one-half of one percent of enrollees' premiums.

A health care system that relies on government to set prices tends to be bureaucratic and cumbersome. This is reflected in a higher number of employees required to set and monitor prices charged for thousands of specific procedures. For example, medicare has 89 public employees for every million beneficiaries to run its price-controlled system. The comparable figure for CALPERS (adjusting upward to one million beneficiaries) would be only 22. Interestingly, this is quite comparable to another major managed competition system already in the U.S.—the Federal Employees Health Benefits Plan (FEHBP) for federal employees—that only requires 16 public employees per million lives covered. The similarity between FEHBP and CALPERS regarding the number of employees required to run the system suggests that managed competition would be a bureaucratically lean way to pursue health care reform, and could represent one way for President Clinton to fulfill his campaign pledge to "reinvest government."

Managed competition also allows for much more dynamism than government-set price controls. Rather than setting fee schedules for doctors and hospitals, managed competition systems such as CALPERS leave it up to private plans to figure out how best to live within their capitated premiums. Several HMOs, for instance, have elected to make capitation payments, in turn, to their doctors as a way to hold down costs. Other firms have merged or consolidated their operations to avoid redundant administrative costs and broaden services. CALPERS also insisted on an across-the-board one percent reduction in plan administrative costs from 12 percent last year to 11 percent, and would like to push this percentage down even further. Managed competition also allows for more dynamism among states because, under a national framework, each could become laboratories for testing different approaches for structuring HIPCs, improving care in rural areas, collecting outcome data, and ensuring universal coverage.[12]

CALPERS also collects and evaluates detailed budget information from each plan; it uses this information to suggest improvements in the delivery of health care.[13] For instance, during negotiations this year CALPERS recommended to one health plan that it reduce the abnormally high rate of caesarean sections performed, a change that would reduce inpatient delays, surgical costs and ultimately improve the quality of care provided to patients and lower premiums.

A third benefit of managed competition is that it creates a powerful advocate for consumers. Among the services CALPERS provides is a Consumer Advocate Unit. This team acts as an independent third party to respond to complaints and questions asked by CALPERS's members. Typically, this unit is asked to enforce aspects of the contract where consumers believe they are being cheated or denied certain benefits. CALPERS's staff is able to bring these complaints to higher levels of authority within firms than the individual consumer who might not receive the same attention from an unresponsive service provider. As a result of such efforts, consumers' satisfaction appears to be high; on average, 71 percent of enrollees would recommend their plan to a friend.[14]

QUESTIONS FOR FURTHER STUDY

While CALPERS displays a strong record, there are many questions that merit further study to determine effectiveness of managed competition in controlling costs and improving quality. For example, some have argued that CALPERS's lower costs have resulted from participating plans offering volume discounts and price-shifting to other consumers. Tom Elkin, CALPERS' chief for health benefits, responds, "To the extent we're getting good prices, it's because we're not accepting the list price offered. No one should take the first price given to them without first evaluating the quality and competition. Consumers do this for cars, CDs and refrigerators—why shouldn't we do it for health care?"

Certainly, the lower prices CALPERS receives results from their strong purchasing power, yet there is no evidence that these prices have fallen below the inherent cost of the service. At the very least, to the extent that some of the savings does result from such cost shifting, managed competition is an extremely efficient way for a group of consumers to exert pressure since the government doesn't have to set prices for each procedure. Ultimately, any existing degree of cost shifting would disappear if everyone obtained their coverage under managed competition.

It is also important to note that California has been in a recession for the last several years. Low health care prices may reflect stagnant incomes and diminished demand for services. Even so, health care prices generally in California have not dropped as a result of the recession, and nationally, increases in health spending certainly have not slowed appreciably during recent recessions.

Some also argue that CALPERS's lower prices may stem from the high penetration of HMOs in California. More than 33 percent of Californians currently receive services through HMOs compared to just over 15 percent for the entire United States.[15] At least 75 percent of CALPERS enrollees participate in HMOs. In cities that have high HMO penetration, however, the same success in restraining prices has not been achieved. Furthermore, before CALPERS established its managed competition system, HMOs were already present in large numbers yet rates continued to escalate. What appears to be essential to holding down prices then, is not just the presence of organized delivery systems, but also the managed competition framework through which such systems compete for enrollees.

One final issue is the question of whether managed competition only applies to densely populated regions that can support multiple, competing health plans. In other words, can this system work in predominantly rural states, where the number of participating health care plans would likely be relatively small? One way CALPERS addresses the needs of California's rural areas is through its self-funded preferred provider organization which is available to members statewide. CALPERS has been able to hold the rate of premium increases under this plan to 4.9 and 7.9 percent in 1992 and 1993, respectively.

These and other questions clearly require further research. Even so, CALPER's remarkable results suggest that managed competition is producing real health care resource savings in California and substantial improvement in consumer satisfaction. Far from being an untested theory, CALPERS represents a practical model for expanding managed competition to other states under a national plan for health care reform.

FOOTNOTES

[1] As quoted in Robert Pear, "Budget Official Sees No Savings in Clinton's Health-Care Plans," The New York Times, February 3, 1993.

[2] Change in Consumer Price Index 1991–1992, according to the Congressional Budget Office.

[3] For extended discussions of managed competition, see Jeremy Rosner, "A Progressive Plan for Affordable, Universal Health Care," in Mandate for Change, eds. Will Marshall and Martin Schram (New York: Berkley Books, 1992), 107–28; See also Paul Ellwood, Alain C. Enthoven, and Lynn Etheredge, "The 21st Century American Health System: A Proposal for Reform," Health Economics 1 (1992): 149–68.

[4] For example, H.R. 5502, "The Health Care Cost Containment and Reform Act of 1992" sponsored by Rep. Pete Stark (D–CA).

[5] There are many potential ways to do this. PPI's Progressive Plan calls for abolishing the exclusion of health benefits from taxable income and replacing it with a fixed tax credit. The Managed Competition Act (H.R. 5936) introduced in 1992 by Reps. Cooper (D–TN), Andrews (D–TX), Stenholm (D–TX), McCurdy (D–OK), and Glickman (D–KA), and its companion bill in the Senate, (S. 3299) introduced by Sens. Boren, (D–OK) and Breaux (D–LA), essentially

proposes to cap employers' deductions of health benefits to the cost of the lowest priced plan in a region. The Jackson Hole Initiatives (proposed by managed competition innovators Paul Ellwood, Alain Enthoven, and Lynn Etheredge) recommends limiting tax-free employer contributions by taxing employees on any amount contributed by their employer beyond the cost of the least costly plan. See also Alain C. Enthoven, "A New Proposal to Reform the Tax Treatment of Health Insurance," Health Affairs (Spring 1984): 21.

[6] From the prepared statement of Ms. Karen Davis to the Committee, December 16 and 17, 1992, U.S. Senate, Hearings of the Committee on Labor and Human Resources, Achieving Effective Cost Control in Comprehensive Health Care Reform (Washington, D.C.: 1992): 81.

[7] Managed competition seeks to make consumers cost-conscious and price sensitive with regard to annual purchases of health coverage. While managed competition does not necessarily rely on greater price sensitivity with regard to individual medical procedures, it allows consumers to compare value based on premium payments and the basic benefit package. The "cost unconsciousness" of consumers today with regard to individual procedures is illustrative of more widespread cost unconsciousness throughout the health care system. A recent Gallup survey reports that almost two-thirds of patients never bring up the topic of money with their doctors before treatment. Another new study by Medirisk shows that the vast majority of consumers have little idea what medical services actually cost. When asked to estimate the charge for a complete physical, those polled cited figures ranging from $8 to $2,500. The actual national average for a check-up is $111, yet the average estimate for all respondents was $270. As cited in Glenn Ruffenach, "Firms Use Financial Incentives to Make Employees Seek Lower Health-Care Fees," The Wall Street Journal, February 9, 1993, B1.

[8] Co-payments are standardized across all benefit plans except in the areas of emergency room services and outpatient mental health. The variation in co-payments for these categories is a reflection of real differences in costs for the provider depending on the location of facilities and prior contracts with suppliers.

[9] One exception was Kaiser Permanente. In order to conform to the new standardized package of benefits and out-of-packet payment requirements, Kaiser had to raise its co-payment requirements for visits to the family doctor and prescription drugs from $1 to $5 for each of these services.

[10] "Health Benefits 1992," KPMG Peat Marwick Survey. CALPERS adjusted the figures which were based on the calendar year to reflect the CALPERS coverage year.

[11] A significant reason for this reduction was also the expansion of co-payments under Kaiser, from $1 to $5 per office visit or drug prescription, required to bring Kaiser in line with CALPERS's new standardized benefit package, as discussed above.

[12] For a broader discussion of the advantages of state-based reform see Rosner, "A Progressive Plan for Affordable, Universal Health Care," in Mandate for Change, 126–27.

[13] Calpers recently implemented an "enhanced data collection" system that enables it to evaluate performance and budget data for each plan. For instance, for the 25 key benefits provided to its members, Calpers looks at the per member, per month costs and outcomes of all services and compares them across all plans.

[14] The California PERS 1991 Consumer Experience Survey Report prepared by Freeman, Sullivan & Company (January 1992).

[15] National Directory of HMOs-1992," (Washington, D.C.: Group Health Association of America, December 1991).

Mr. BREAUX. In summary, Mr. President, I am just delighted we are making this progress, and that Mrs. Clinton is in charge of the Commission. I think the information they get is going to ultimately produce a better product.

That Commission is hearing from various interested groups. We have heard some recent reports in the press that groups are not happy with the fact that they do not sit on the Commission. Well, there is a difference between sitting on the Commission as a member of the Commission and having input to that Commission.

I would suggest that various interest groups—suppliers, doctors, hospitals, and the AMA—are, in fact, being listened to. They are just not making good decisions. And I think that is a fundamental distinction that we should be aware of.

So when I read the articles, I initially was somewhat concerned that we were not listening to the people that are going to be affected who are suppliers of health care. After finding out a little bit more information, I find that they are not complaining about not being listened to. They are complaining about not running the Commission.

And certainly the Commission has to be, I think, an in-house operation that the President has appointed. They listen to everybody and then they make a recommendation. And that recommendation is going to be fully aired in the Congress and in the Senate. Every interest group will be able to come in and say why they think it is a good idea or why it is a bad idea and have the opportunity to make suggestions.

So, Mr. President, I think we are well on our way to coming up with a proposal which is going to be sound and solid and one that I think this Congress will give most serious consideration to.

With that, I yield the floor and make the point of order that a quorum is not present.

The PRESIDENT pro tempore. A point of order has been made that a quorum is not present. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Florida is recognized.

The Chair observes that the time under the control of the majority leader has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

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

The Senator from Florida [Mr. GRAHAM] is recognized for not to exceed 10 minutes.

LONG-TERM HEALTH CARE

Mr. GRAHAM. Mr. President, tomorrow Hillary Rodham Clinton and the Robert Wood Johnson Foundation will convene one of several hearings across the country on health care reform. Mrs. Clinton and Mrs. Gore will hear from several hundred Floridians in Tampa, FL.

I am proud that they will have the opportunity to review the unique, health-related concerns and issues of Floridians, ranging from the high number of small businesses in the State, to several innovative Florida insurance programs. I applaud and support the President's efforts at forging consensus on health reform.

I am particularly pleased tomorrow's hearing will focus on long-term care and issues of special concern to older Americans. Three million older Americans live in the State of Florida. Indeed, in Florida, the over-85 population will increase from 200,000 in 1990 to 350,000 in the year 2000. It is particularly appropriate that tomorrow's hearing occur in Tampa because of these demographics.

Yesterday's Washington Post contained an on-point column regarding demographics and the budget deficit. I ask unanimous consent that the article be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. GRAHAM. According to the article, long-term deficit reduction must include difficult budget cuts so that our grandchildren will not have to pay for our mistakes, mistakes that could become their future—a future which will bring greatly increased numbers of older Americans in need of expensive long-term care services.

I agree with my colleague, Senator MOYNIHAN, who has frequently observed that "the study of the future is the study of demographics." Between 1990 and 2010, the over-85 population of America will double. In 1990, there were 3.2 million Americans of the age of 85, representing 1.3% of the population.

By the year 2010, the over 85 population is projected to increase to 6.1 million. This population has medical expenses 2.5 times higher than those ages 65 to 69.

As the aged population grows, social and health service needs will increase. It is our responsibility as a nation to make tough decisions today in anticipation of and preparation for our future needs.

One part of this effort is to determine the level of services needed in the future, the role of the private and public sector, and the most cost effective and humane way to provide services. We must devise and implement a system which acknowledges the aging process; which, in fact, more than acknowledges, but which applauds the aging process.

Mr. President, one of the fundamental reasons for the creation of our Nation was to preserve life, liberty and the pursuit of happiness. And one of the great accomplishments of our Nation has been to extend the period of life. We must see that that extension is only the addition of numbers of years, but also the pursuit of happiness throughout those years. We must pro-

vide a system that assists without engaging, and recognizes the dignity and desire for independence of older Americans.

Our system must promote self-sufficiency by assisting persons with chronic health needs and disabilities to the degree necessary, not overcompensating and misplacing persons in institutional settings prematurely and unnecessarily. Our goal must be to place persons in the home or community with an institutional setting as the last resort.

Mr. President, I am not advocating a system which will exclude nursing homes. Indeed, institutional settings provide a crucial component of a comprehensive continuum care system. However, our system must offer alternative settings—in the home and community—where appropriate and until a nursing home is absolutely necessary.

In considering a solution, one must consider the various aspects of the problem.

First, the provision of long-term care in an institutional setting is very expensive. An average year in a nursing home costs $30,000. Nursing home costs are the leading cause of catastrophic costs, which diminish lifesavings for the elderly and disabled.

Second, the current system is skewed toward institutional settings, both financially and in terms of service delivery. Nationally, total spending for persons with chronic illnesses or functional limitations totaled an estimated $57.8 billion in 1988, the last year for which figures are available. Seventy-seven percent of the spending was for nursing home care compared to 23 percent targetted to home- and community-based care.

The imbalance is the result of several factors. While Federal Government funding for institutional care is provided with virtually no strings attached, great restraints exist for home- and community-based funding, such as waivers and caps on spending levels.

Many States lack the necessary infrastructure to provide home- and community-based care. The existing infrastructure is characterized by limited alternatives to institutional care, few incentives for innovation, and little to no referral in hospital settings or by community physicians to noninstituional settings.

An example of an enlightened infrastructure exists, I am pleased to say, in the State of Florida, which pioneered a statewide home- and community-based program called Community Care for the Elderly.

Florida—in large part because of that system and in spite of the fact that it has the highest proportion of its population in the Nation over 65 and by far the highest proportion of its population over 85—has the second lowest ratio of nursing home beds in the population over 65 in the country.

I am pleased that tomorrow Mrs. Clinton and Mrs. Gore will have an opportunity to learn first hand about what a State innovation can do to deal with an important, pressing national concern relative to how to provide a range of services for older Americans and for disabled Americans.

A third concern about our current system is its philosophical limitation. Many so-called social services, such as homemaker services or adult day care, are considered in a separate category from health services and, consequently, not funded.

But, these very social services are utilized to deter or to treat a medical event or consequence. If one conceptualizes health care as a final destination, then the above social services should be included in comprehensive reform efforts.

Finally, our long-term care system is plagued by quality of care problems. While quality of care is difficult to monitor, it is imperative that we install and maintain comprehensive quality of care standards for the most needy Americans—the frail elderly and the severely disabled.

Mr. President, yesterday, my colleague from Arkansas, Senator PRYOR, and I introduced a modest long-term care bill that addresses these issues. It is modest because it begins the process of reforming our system, improving and expanding programs to be used as building blocks in the future.

Unfortunately, Americans have a long history of using their rear view mirror as a crystal ball—we see our reflection and keep on driving. Today, we must carefully evaluate our future needs, using the demographics of my State and the Nation, and make sure that in the 21st century we are prepared for the needs of elderly and disabled Americans. I am pleased that Hillary Clinton will accomplish this goal in Tampa, FL, tomorrow.

EXHIBIT 1

[From the Washington Post, Mar. 10, 1993]

WHAT CLINTON ISN'T SAYING

(By Robert J. Samuelson)

We face a future of much bigger government, regardless of which party controls the White House. Even if President Clinton's budget program were completely adopted it would only nibble at the long-term deficit. An aging America is relentlessly raising the costs of existing federal programs, and there remain large gaps in social services that most Americans want from government. By my rough estimates, balancing the budget early in the next century could easily require increasing the federal tax burden by nearly a third: from today's 19 percent of gross domestic product to about 25 percent.

You simply aren't getting an accurate picture of the budget outlook. President Clinton isn't giving it to you, nor is the press. No one is looking beyond the next four or five years to the population changes that will fundamentally drive federal spending in the next century. It is precisely because these forces are so powerful that everyone needs to take a longer view. Once you do, the conclusion becomes obvious: The president and Congress ought to be ruthless today in paring back unneeded government programs so that tomorrow's unavoidable spending increases will be easier to bear.

Unfortunately, Clinton's budget program goes in exactly the opposite direction. He condones unneeded programs and adds too much new spending. Instead of clarifying government's responsibilities—telling us what's essential and what's expendable—Clinton perpetuates the fuzzy notion that government should do anything that seems vaguely desirable. He gives us a smorgasbord of new government ranging from "national service" to more research and development. By 1998, all his new spending proposals and tax breaks would bloat the deficit by $62 billion.

Worse, these scattered spending increases will compound all the other pressures for higher taxes. Let's examine what those are. Consider:

AN AGING AMERICA

An older population means Medicare costs more. People get sicker, and their illnesses are more expensive. Between 1990 and 2010, the over-85 population will double; and those over 85 have medical expenses 2.5 times higher than those 65 to 69. The taxes used to pay for Medicare are gradually being overwhelmed. Between 1997 and 2010, spending will increase by nearly 2 percent of GDP, estimates the Health Care Financing Administration. Paying for that increase would require about a $120 billion tax increase in today's dollars.

HEALTH INSURANCE FOR THE UNINSURED

Clinton has promised this as a part of his health-care program, and so the extra spending could come sooner rather than later. In 1992 an estimated 35 million Americans lacked health insurance. The cost of covering them would be about $35 billion annually, if the cost of a basic insurance package could be held to $1,000 per person. That's about 0.5 percent of GDP.

LONG-TERM CARE

Older Americans already fear being bankrupted by nursing-home care. As more Americans age, the anxieties will rise—and so will pressures for government help. Clinton may or may not include long-term care in his health plan. But any major program would be costly. Legislation proposed by congressional Democrats would expand Medicare coverage for home health care (visiting nurses, caretakers, etc.) and nursing-home stays. The annual cost is $45 billion, about 0.75 percent of GDP.

You may note that my list doesn't include some possible new programs: for instance, welfare reform. Even so, the items listed above would cost about $200 billion annually. However, that's not the end of the story. Let's assume that Clinton's budget is adopted. The deficit drops temporarily—mainly because taxes rise and defense spending falls—to a low of 2.7 percent of GDP in 1997. (Extra spending cuts now being discussed in Congress might reduce that to 2.5 percent of GDP.) To balance the budget, this, too, has to be covered. All told, the necessary tax increases amount to nearly 6 percent of GDP. That's $360 billion in today's dollars and more than five times the tax increases in Clinton's program.

Given these huge pressures, Clinton's expansive spending proposals—on everything from highways to subsidized tree planting—are simply an exercise in irresponsibility. Clinton could easily have cut the deficit an additional $50 billion a year: $30 billion of

savings could have come from forgoing much of his new spending; $20 billion more could have been saved by eliminating outmoded programs like farm and cultural subsidies. All these programs—old and new—are mostly handouts to favored constituencies. They're not essential social spending.

There are two possible defenses of Clinton. The first is that he's unaware of the next century's huge spending pressures. This is implausible. Hey, this guy is President Policy Wonk. He knows budget trends. The second defense is that Clinton will defuse these pressures by controlling health-care inflation. Yes, that's critical. But it isn't by itself a solution. The excess inflation in health care isn't the only reason for rising costs. An older America will need (and demand) more health care than today's younger America. Indeed, the projections of Medicare spending cited above already assume that health-care inflation will subside substantially.

We are on the edge of an upheaval. Since the 1950s, the national tax burden has been stable. In 1954 federal taxes were 18.9 percent of GDP; in 1992, they were 18.6 percent. Two trends explain this remarkable stability: first, we paid for rising welfare spending by cutting defense (in 1954, defense was 70 percent of the total; now it's 20 percent); and second, we allowed the deficits to explode. Both trends are now reaching their limits. My projections of spending and tax pressures are admittedly crude. But in some ways, they are conservative, because all the pressures will intensify around 2010, when baby boomers begin to turn 65.

One way or another, today's younger and middle-aged workers will shoulder the load of bigger government. Given population trends—and the essential role of government in providing medical care for older Americans—much of the increase is unavoidable. The legitimate complaint against Clinton is that he's not anticipating this spending bulge and, through his own unchecked spending increases, is making matters worse. He keeps preaching to us about the need to be candid and to take the long view. But he hasn't done either.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I ask confirmation from the Chair that the 1 hour under the time controlled by the majority leader has now expired and it is time for the 1 hour on the Republican side of the aisle to commence?

The PRESIDENT pro tempore. The Senator is correct.

Mr. SPECTER. Mr. President, I seek recognition, after having discussed it with the staff for the leadership, to proceed on the topic on health care.

The PRESIDENT pro tempore. The Senator wishes to have his time charged against the minority leader's time?

Mr. SPECTER. Yes, I do. I think that is in order. That time has arrived.

The PRESIDENT pro tempore. It is. How much time does the Senator wish to consume?

Mr. SPECTER. I would seek time, Mr. President, until another Republican Senator arrives on the floor.

But let me start with up to 7 minutes?

The PRESIDENT pro tempore. Without objection, the Senator from Pennsylvania [Mr. SPECTER] is recognized for not to exceed 7 minutes.

Mr. SPECTER. Mr. President, 2 hours were set aside today for discussion of health care. It is now 10:42, so we are just a little late in starting on the Republican time. During the course of the past hour plus, according to my tabulation, there were six Senators who spoke. I arrived at about 9:40, after attending a meeting of the Republican Task Force on Health Care, which started at approximately 8:30 this morning. I am informed that Senator REID had spoken in advance of my arrival. When I came, Senator BURNS, the Republican Senator from Montana, was speaking on another subject. And in the absence of any other Senator from the Democratic side of the aisle, I spoke briefly.

(Mr. GRAHAM assumed the chair.)

Mr. SPECTER. Then Senator HARKIN, Senator BREAUX, and Senator GRAHAM all spoke on the issues of health care. I would note two of the Senators who spoke, Senator HARKIN and Senator GRAHAM of Florida, spoke in part because the First Lady, Hillary Clinton, is due to be in their States.

My conclusion, Mr. President, is that the showing, at least so far on this 2 hours set aside for health care, has not been enormously positive. As we are on the floor today, there are only two Senators present, the distinguished Senator from Florida [Mr. GRAHAM] is presiding, and I am the only other Senator on the floor. And I would say the lack of enthusiasm or lack of press is about the same on both sides of the aisle. But that conclusion, perhaps, is premature as to the Republican side since we are only 14 minutes into the hour which has been reserved for our side.

But my conclusion is that we need something more than an hour set aside in morning business for Democrats, an hour for Republicans, in order to focus some real attention on this issue.

I have been in this body for 12 years-plus and I know we all have many other responsibilities. There are committee meetings, committees where I am a member, which are in progress now. But I believe this is a more important subject to take my attention this morning. There are numerous other responsibilities with constituent visits and with speeches off the Hill and with phone calls in preparation of legislation, work on the motor-voter bill which is coming up today, the confirmation process of Attorney General-designee Janet Reno.

But I also note, Mr. President, that the way to command attention from Senators, really the only effective way, is when the bells ring for a vote. When that first, long ring occurs, shortly thereafter, a few Senators appear on the floor. When those five bells ring, at about the 10, 12, 14-minute mark, Senators pour onto the floor. So when you have a vote you command attention of Senators. And when you offer an amendment you command attention of a few Senators. Senators who are interested in the matter come to the floor. Others listen. Then there may be some response.

The experience of this morning leads me to give renewed consideration to offering health care legislation on another bill at a reasonably early date. Before I make that judgment, I will want to consult with some of my colleagues to make that determination. But I believe it is important that we do more than reserve 2 hours of debate in morning business which is scarcely attended at all. I believe it is important that we do something to focus the attention of the Senate on health care reform and to move the health care issued ahead.

Last year, one of the Senators on the other side of the island—aisle, it almost seems like an island this morning; sometimes the Freudian slips are the most accurate—commented that this is a one-man town, a one-person town, and that there could not be action in the absence of a push from the President.

I responded to that by saying I thought it was not a one-man town or a one-person town, but that the Senate and the House had opportunities for leadership on the issue of health care and on all the other issues as well. And I would renew that statement today.

As I had said earlier this morning, on January 21, the first day the Senate was in session for legislative business, I offered a comprehensive bill on health care designated as Senate bill 18. I commented during the course of that floor statement that, while complimenting President Clinton on his Inaugural Address, that I would have wished for some more substance on an economic package, which I considered to be the top issue facing America, and on health care, which is the other top issue facing America. Perhaps I should say they have equal status.

I introduced Senate bill 18, which is comprehensive health care legislation, based on work which I have done on that subject during the course of my 12 years plus in the U.S. Senate, with emphasis on my work on the Appropriations Subcommittee on Labor, Health, Human Services and Education for the past 4 years plus, in the fifth year now. Senator HARKIN, the distinguished Senator from Iowa, and I have worked closely together—Senator HARKIN has been the chairman and I have been the ranking Republican.

My legislation addresses the critical issues of access, where we now have some 37 million Americans without health insurance. In my extensive floor statement, part of which was presented on the floor and the balance of which was put in the RECORD, I addressed a means of covering most of the 37 mil-

lion Americans now not covered with provision of coverage for the balance by the Federal Government under a program like Medicare or Medicaid and outlined a proposal which would pay for that additional Federal responsibility starting with the concept of expanding managed health care, which has gained wide acceptance and appears to be the cornerstone of the program where First Lady Hillary Clinton is working with her committee.

She joined a large group of Republican Senators yesterday afternoon for approximately an hour. I attended. Mrs. Clinton made a very impressive presentation, very knowledgeable, responded to questions very directly. I am hopeful that her committee will produce health care legislation which we can all support. It is a big task to get that done by May 1. Even if it is done by May 1, there are questions which have been raised as to whether we can complete health care legislation this year.

My own view is that we should have started on it earlier. I would like to have seen an administration proposal on Inauguration Day. That may be a little demanding, but the health care issue was in the forefront of the legislative agenda last year. We have a variety of bills which have been pending for a long time.

The way to get legislative action in the Congress is to bring a bill up on the floor. The best illustration was the clean air bill which was brought up in 1990. We debated it. I had some spirited discussions with my distinguished colleague from Minnesota, Senator DURENBERGER, who has come to the floor, and, noting his appearance, I will be more brief than I would otherwise. We divided into task forces and we enacted a bill which was a significant step forward.

The legislation, Senate bill 18, which I have proposed, deals with the issue of access and deals with the issue of costs. We have very good evidence that managed health care can provide very substantial savings, perhaps up to 20 percent or perhaps even more. The legislation that I have proposed deals with expanding access to prenatal care to reduce the number of low birthweight births. A reduction in the number of low birthweight births involves a multi-billion-dollar savings. It is a human tragedy to see a youngster come into this world weighing, 16, 18, 20 ounces, and it is a financial expense with costs as high as $150,000 per child, perhaps even higher.

My legislation deals with terminal costs; deals with expanding the pool of nurses and physician assistants into the field of primary care delivery, which would involve savings; deals with information for consumers as to the doctors' records and quality of care and as to the hospitals' records and quality of care; deals with expanding primary and preventive care; deals with the issue of encouraging doctors to practice in underserved rural and urban areas. It is a good place to start.

I am not saying that S. 18 is the final answer. As you try to work through the structure of the so-called HPIC's, the organizations that establish and monitor the standards for the coverage and delivery of care, who is going to control, Federal or State, and how they are going to be organized, it is clear much work needs to be done. It is extremely difficult to put a comprehensive umbrella over our health care system in a way we are sure will work. My bill contains eight titles, which will advance the field very substantially and would leave a relatively small number of people not covered, and those not covered could be provided coverage by the Federal Government.

But I do hope, Mr. President, that my colleagues in the Senate will focus with greater care and intensity on this subject—similarly in the House—and give thought as to how we can move this ahead. It is now March 11. We are a long way from May 1. If on May 1 legislation is introduced, which is then going to be referred to committee, we are a long way from having a committee reported bill. But I do believe that if the majority leader would schedule health care, or in the absence of its being scheduled at an early date, if legislation were introduced on our side, which we can do at any time, and the legislation is ready, we should move ahead.

I was asked to speak, Mr. President, until another Republican Senator appeared on the floor. Senator DURENBERGER, the distinguished Senator from Minnesota, was not present when I started my talk. In yielding the floor, I pass on the admonition to my colleague, Senator DURENBERGER, that he only has 37 minutes until 11:30. I thank the Chair and yield the floor to my colleague from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

ACCEPT THE CHALLENGE

Mr. DURENBERGER. Mr. President, I appreciate the generosity of my colleague. Certainly with 37 minutes, I challenge my Republican colleagues to come to the floor and speak on an issue in which we have been deeply involved for a long time. I do appreciate the opportunity to be here and listen to my friend from Pennsylvania because more than once he has come to the floor, particularly in 1992, and challenged us actually to get to work on this problem and to produce something. If it was not going to be produced in the executive branch, then we ought to produce it here. I guess we stood here many times trying to respond to that challenge. It is never too late. This is the year. As he indicated, with the opportunities given us now by the President and by the First Lady, all of us are willing, as well as able, to accept that challenge.

TRIBUTE TO DR. BILL ROPER

Mr. President, I rise for two purposes today. The first is to recognize that in this business of health care and health policy, there are unique people who infrequently come—and only too frequently go—from our midst. One of them is leaving us today; Dr. Bill Roper is leaving the public sector.

Dr. Bill Roper is in the process right now of announcing his resignation as the Director of the Centers for Disease Control. Bill Roper is a doctor of pediatrics. He has a master's degree in public health, and he has spent the whole of his life in the field of public health and child health. He came to Washington, DC, as I recall, in the early eighties—1983—to work in the Reagan administration, in the White House Office of Policy Development. He rose to be the Deputy Assistant to the President for Domestic Policy and Director of the White House Office of Policy Development.

He also served President Reagan as the Director of the Health Care Financing Administration from May 1986 to February 1989.

Then, from March 1990 to the present, he went to Atlanta, which is near his home in Alabama, to take charge of the Centers for Disease Control.

I ask that a statement of Donna Shalala, the Secretary of Health and Human Services be printed in the RECORD.

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

STATEMENT BY DONNA E. SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES

Dr. William L. Roper announced today that he has resigned as the director of the Centers for Disease Control and Prevention and the administrator of the Agency for Toxic Substances and Disease Registry effective June 30.

Dr. Roper has been an outstanding advocate for disease prevention activities, moving the country into new areas of prevention and strengthening existing programs. He has been a leader in working with state and local governments to strengthen the nation's public health system. And, during his stewardship of the CDC, he has worked tirelessly to improve the health of the nation's children. While at CDC he has launched a major new initiative to systematically evaluate the effectiveness and the cost effectiveness of preventive services. He has been an articulate spokesman for the need to include prevention as a key element in health reform.

Dr. Roper's contributions to public health began early in his career. As the health officer of Jefferson County, Alabama, he was recognized by the Institute of Medicine for his outstanding efforts in improving maternal and child health services, particularly for low income women and children.

In addition to his major contributions to public health and prevention, he has been a leader in health care financing and health care reform. As the administrator of the Health Care Financing Administration, he played a key role in the Medicare Physician Payment Reform enacted by Congress in 1989, including the emphasis placed on improving the quality of medical care. Particu-

larly important were his contributions related to the research that established the basis for the Medicare payments to physicians and his stressing the need to judge medical care on the basis of its effectiveness.

There are few health leaders who have contributed so substantially in public health, health care financing and the organization and delivery of health care. We are grateful for his contribution to public service, particularly for his contribution as the director of the Centers for Disease Control and Prevention.

We are pleased that Dr. Roper has agreed to continue as CDC director and ATSDR administrator until June 30, 1993, in order to ensure the implementation of the President's immunization initiative and to ensure an orderly transition.

A search committee to seek a successor will be established immediately under the chairmanship of Dr. William Foege, former director of CDC.

Mr. DURENBERGER. I want just a minute to acknowledge that those of us who have known Bill Roper at one time or another know him as the kindly doctor that we all kind of remember when growing up—except that he is younger than we are, and he is still there to remind us of the values that people bring to the practice of medicine. It seems like some of them lose those values somewhere along the line. Bill Roper never has, and he never will.

He has made amazing contributions to my understanding and the understanding of Presidents, people inside the bureaucracy, people in elected public life, as well as the general public, trying to improve public policy. He has done it in an amazingly intelligent, quiet, unassuming way—you know he means exactly what he says and that he will do whatever he suggests that you do.

Bill has become a very close friend of mine, as he has of many of us around here. His dear wife is also a friend. His pride and joy, of course, is not his work in the Public Health Service, not his work at CDC, not his work at HCFA, not being right next door to the President for several years giving policy advice. I think his pride and joy is a little kid named Will who has been part of his life for the past 2 or 3 years. Will more than anything represents why Bill Roper is committed to reforming health care and improving the quality of health care in America for everyone.

DISPARITY IN PHYSICIAN CHARGES

Mr. President, the Urban Institute has conducted a study which was published in the New England Journal of Medicine earlier this week. The study examined the geographic disparity in doctor bills for all Medicare patients in 59 selected metropolitan statistical areas in 1989. In terms of physician charges, Miami is the most expensive major metropolitan area in the country for a senior citizen to get sick. Minneapolis, where I come from, is one of the least expensive. In fact, we are so inexpensive they did not even include us in a study of about 19 major metropolitan areas.

Overall payments per Medicare beneficiary average $1,874 in Miami and only $822 in Minneapolis. The same people going to the same kind of doctors with the same kind of background, but the difference in payment to the doctors and hospitals is more than twofold between Miami and Minneapolis.

If you think we are that unique, I would inform you that it is almost the same in San Francisco and some other areas of our country. Researchers were uncertain as to why geographic disparity exists. The evidence showed that charges were lower in places with relatively more family doctors and fewer specialists and, therefore, an important revelation to further study the source of geographic disparity, which is a concern that my colleague on the Medicare Subcommittee, JAY ROCKEFELLER, shares. I hope to work with him to further examine that issue and the relationship of primary care to it as well.

Mr. President, there is an editorial on this subject in today's Washington Post, and it is referring to the New England Journal of Medicine article on the issue of geographic disparity.

I ask unanimous consent that the Post editorial be printed in the RECORD.

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

[From the Washington Post, Mar. 11, 1993]

WHERE NOT TO GET SICK

Wide disparities in health care exist throughout this country, and there's not necessarily any relationship between the amount of care and the quality. The diagnosis that gets you wheeled off for an expensive operation in one city may well be treated with pills in another—with a similar or, sometimes, better outcome.

It's only recently, with the growing attention to health care costs, that the size of these regional disparities has become fully apparent. The largest study yet, comparing treatment of Medicare patients in 317 metropolitan areas, appeared this week in the New England Journal of Medicine. With statistical adjustment for all the usual factors, it provides a clear picture of the disparities in the number and complexity of services provided to patients.

In San Francisco, the average Medicare payment per beneficiary in 1989 was $872. The same figure in Miami was more than twice as great: $1,874. But the five authors—two health care analysts at the Urban Institute and three Dartmouth Medical School physicians—were unable to find any evidence that patients in Miami benefit from those high rates of treatment. To the contrary, the authors say, "they may just as plausibly be harmed." There's a correlation between areas with high rates of admission to hospitals and those with higher death rates.

Here in the Washington area, if you were wondering, the hospitalization rate is just about the national average, and the average Medicare patient gets somewhat more than the average amount of treatment—but far less than, for example, in Little Rock or New Orleans. Costs tend to be somewhat lower in cities with high ratios of primary care doctors to specialists. But the chief explanation for these enormous differences seems to lie in the widely varying habits of doctors. As the study points out, these variations illustrate the lack of consensus among doctors about the proper treatment of many conditions.

Translated into budgetary terms, these comparisons suggest tens of billions of dollars a year in questionable Medicare outlays alone. That's a clear warning to the Clinton administration as it designs the country's future health care system.

There's currently a lot of talk about imposing a national ceiling on health expenditures. A temporary one might serve a useful purpose, but there's a great danger that a simple price freeze would only perpetuate the present structure of treatment and payments. As the authors of this Medicare study observe, the reformers can't afford to lock in this misallocation of resources and geographic inequity.

Mr. DURENBERGER. Mr. President, before I yield to my colleague from Arizona, I would like to observe that this is a very important issue. It is not just a strange phenomenon. It is not just a freak of nature, something different about the cold weather of Minneapolis or the nice, consistent 60–70 degree weather in San Francisco. It has everything to do with our ability to contain costs in the medical care system in this country by raising the quality of the care.

There are two ways to do that. One is to change the way medicine is practiced in America. We can change that by the way we purchase our health care, and that is what is going on in the Twin Cities right now. Large groups of people, buying through what we are now going to be calling accountable health plans, change the way medicine is practiced—rewarding the best providers with business, and rewarding the consumers who buy more appropriately with financial savings.

The second way to reach cost containment is to redefine the problem. Many of us who have been in political campaigns in the last couple of cycles have come to believe that the problem is the 37 million uninsured, that the solution is universal coverage, and that the way to get the universal coverage is cost containment.

But the problem is much larger than that. It is a problem of medical access especially in rural areas, and some inner city areas. But there is a much larger health problem in America today.

As my colleague from Pennsylvania has indicated, the lack of immunization of young people, the lack of prenatal care, the lack of responsibility, the lack of appropriate lifestyle—all of these factors have contributed to the major health care problems that this country faces today.

As President Clinton indicated to us yesterday, in addition to the health coverage problem, the medical access problem, we have a long-term problem. We are spending billions and billions of medical dollars on social services for the elderly in this country, and that is a situation that has to stop as well.

So cost containment can be achieved by raising the quality of care in this country. It can be done by changing the way we practice medicine. It can be done by showing Miami and the rest of this country how it is done in San Francisco, Minneapolis-St. Paul, or Rochester, NY. Second, and more importantly we need to redefine the health problem that faces the people of this country. We can give everybody in this country, if we could afford it, a health plan. But, if we do not do something about the health problems that plague our families and our communities every single day of the week, we have not solved this problem.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent to allow 5 minutes to the Senator from Alaska. It is important that his remarks follow those of the Senator from Minnesota.

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

Mr. MURKOWSKI. I thank the Chair and I thank the Senator from Arizona for accommodating my schedule.

HEALTH CARE REFORM

Mr. MURKOWSKI. Mr. President, I am going to bring to you and the remainder of my colleagues a new perspective for consideration in the issue of health care reform. I rise this morning, as ranking minority member of the Veterans' Affairs Committee, with a special interest in interaction of reforms in the general health care system, and I would like to communicate some specifics for my colleagues.

The Federal Government is currently committed to not only the Veterans' Administration health care obligation, but for Native Americans we operate the Native Indian Health Service as well as an extensive Department of Defense health care system.

Mr. President, some interesting facts. There are in the VA system 171 hospitals, 350 outpatient clinics, 126 nursing homes, 35 domiciliaries, over 500 separate health care sites, and direct employment for 210,000 health care employees.

The work load: About 943,500 hospital episodes annually, 22.5 million outpatient visits, 2.5 million veterans served annually; with a budget, Mr. President, of $14.6 billion. Health care is $14.6 billion out of the $34.7 billion budget.

Now, let us look at the Department of Defense, another commitment of the Federal Government: 168 hospitals, approximately 800 total service delivery sites worldwide; direct employment, Mr. President, of 329,000 health care employees worldwide. The work load: 50 million outpatient visits, 797,500 hospital episodes annually, and a budget of $13 billion in fiscal year 1993.

The third area, Mr. President, is the Indian Health Service: 42 hospitals, 121 Indian Health Service health centers, over 500 direct health care delivery sites including 172 Alaska village clinics in my State; direct employment: 14,764 health care employees; workload: 58,500 hospital episodes annually, 12,100 births annually, 3.8 million outpatient visits; the budget: Approximately $2 billion.

So, Mr. President, we are looking at a health care system that is going to be affected by health care reform we are contemplating in this body, and it is going to affect the VA, the Department of Defense, Indian Health, and other Federal health programs provided to care for millions of American citizens as an obligation.

Yesterday, a portion of our caucus met with the Nation's First Lady. We discussed the role that the administration, and basically her organization, foresees for the Federal direct providers, the VA, the DOD, migrant health care centers, and so forth. The indication was that there was a concern about the possible consequences of this health care reform bill and how it would affect these hospital care systems of the VA, Indian Health Service, and the Department of Defense. But there were no specifics as to whether these considerations were going to be dealt with, or whether we were going to go ahead with the legislation as proposed, by May.

Clearly, Mr. President, this is a major consideration because it is going to affect these Federal programs and affect our obligations.

In all good conscience, one has to ask, should the Federal health care program be allowed to continue to stand alone regardless of proposed reforms? That is unlikely to occur. Last year, the Congress appropriated over $30 billion, as I have indicated, for approximately 600,000 Federal employees to serve those recipients.

Let me conclude, Mr. President, by advising the Chair that at my request the GAO analyzed this matter last year. GAO's report suggested—and this is astounding, Mr. President—that up to one-half of the VA patients would choose an alternative to the VA if a national health care or universal health access system were available to them.

Think of that. What would that mean in revamping the VA system? Nobody knows.

A veterans organization, the Paralyzed Veterans of America, conducted its own study in 1992 called Strategy 2,000. Strategy 2,000 showed that one-fourth of the VA patients would leave the VA for a national health care system.

Mr. President, we have these agencies, VA, DOD, Indian Health, advancing their own agendas. The VA has over $2 billion in construction currently underway for the next 4 or 5 years. The DOD has a similar program. As a consequence, Mr. President, we are faced with a reality of not really knowing where we are going with these programs. One can ask should construction be held off until we have a determination? The VA budget for construction is $668 million. We have a President's economic stimulus package of over $236 million earmarked for the VA alone. These are temporary jobs, construction, maintenance, and so forth.

In summary, Mr. President, we need to take a long look at the implications of what major health care reform would do to these three systems and the budget of some $30 billion and the lifestyle of over 600,000 who serve those systems.

Mr. President, I intend to make a series of statements on these matters over the next few weeks because I think it is mandatory that those considerations be part of the health care reform process as we visit the implications and obligations we have.

I thank the Chair. I particularly thank my colleague from Arizona for allowing me to come in ahead of him.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank my friend from Alaska. I think it would be appropriate to comment on his many year long efforts in behalf of the veterans of this Nation. He has served both as chairman and now as ranking member of the Veterans' Affairs Committee and he has carried out those duties in a splendid and dedicated fashion. He has been recognized by veterans organizations all over America. I believe the American people also should give him his deserved praise and credit for his efforts on behalf of those who have served and sacrificed in behalf of freedom. I thank you, Mr. President.

THE CLINTON BUDGET AND NATIONAL SECURITY

Mr. McCAIN. I would like to begin my remarks by making a comment on some of the statements that some Members have made on the subject of base closings. As we all know, there will be a list provided tomorrow. It is very understandable that many of these Members would be concerned about the economic impacts on their States and districts. I would point out that many of these same Members are ones who have called for draconian cuts in defense spending. It seems to me a bit paradoxical that they did not or do not appreciate the fact that if you continue to seek these dramatic cuts in defense spending even in excess of those that we are already experiencing, inevitably, bases will have to be closed.

Although a base in my State was closed in the last round and may be in

this coming round, I think the fact is that the Base Closing Commission has acted in a fair and equitable manner, having made some mistakes as all commissions do.

I also point out that it was a positive act of Congress that gave this responsibility to the Base Closing Commission since it became abundantly clear that we were unable to manage that responsibility ourselves because of the, at least, short-term pain that was inflicted on our various States and districts.

On three separate occasions in recent history we have disarmed ourselves, and needlessly imperiled our national security in doing so. Few truths are more enduring than the warning that those who forget the past are condemned to repeat it.

I am increasingly concerned that the Clinton administration's economic program ignores the warnings of history and once again threatens our future security. The draconian and disproportionate share of budget savings that will be borne by our Nation's defenses under the President's proposals belie his stated intentions to sustain a military force that is adequate to the challenges of the future.

Often in American history, the end of conflict is the beginning of illusions. Left behind on the battlefield are the hard learned lessons of wars that could have been avoided or concluded at a less terrible cost. We have endured one military trial only—by errors of omission and commission—to begin an unseen drift toward another, as little prepared for the new crisis as we were for the last.

After World War II, flush with victory and weary of war, we demobilized our forces and relaxed our defenses far beyond the levels which prudence and the apparent hostility of an erstwhile ally demanded. We had confused victory with enduring invincibility, and the cost was a war in Korea, for which we were ill prepared and which we nearly lost.

After Korea, we again raced incautiously from war to peace without due regard to the emerging and global threat from the Soviet Union. We lost our ability to fight a European conflict without immediate resort to nuclear war. We lost our power projection capability and our technological edge. Our self-imposed weakness invited new challenges from our enemies, and we found ourselves trapped in a long, escalating arms race with a determined adversary.

Stunned and enervated from our losses in Vietnam, we nearly conceded the larger contest, and once again tempted our enemy into escalating a massive arms race. Our forces were hollow. Our conventional options in Europe were abandoned. Our power projection efforts were undermined by inferior readiness and capability.

Indeed the Chief of Staff of the U.S. Army had to formally warn the Congress that he commanded a hollow force. Then, as we again approached the precipice of disaster, we initiated another crash buildup of our forces to compensate for past underspending and unpreparedness.

Thanks to a determined President Reagan, we were able to restore our readiness and capabilities in time not only to check the advance of the Soviet Union, but to help render it bankrupt, and hasten the collapse of its empire.

Fast on the heels of that collapse, we frustrated the ambitions of a regional empire builder in the Persian Gulf, and overwhelmingly defeated the world's fourth largest military power with a minimum loss of life. Those two events have established for now America's sole claim to the status of world superpower. Thus, the question recurs: Will our confidence obscure new challenges, and will our relief in victory dull our anticipation of new threats. Or will we learn the lessons of war and peace, and recognize our responsibilities in a world of greater opportunities, but less stability, where the threats we face are less immense, but more diverse.

President Bush had implemented a policy which promised to avoid the mistakes of the past. He initiated major reductions, which I supported, in defense spending which responded correctly to changing geopolitical circumstances and security threats, and to the fiscal pressures of the time. But those reductions were appropriately based on estimates of present and emerging threats to our security. Thus, he was able to effect a real peace dividend while sustaining our status as the only power capable of meeting aggression, when necessary, anywhere in the world.

Today, I fear that our new President's understandable focus on our economic problems has encouraged him to take risks with our security that we can ill afford to take. I fear that he has yet to grasp the hard learned lessons of the past and may give less than adequate attention to the imperative of preventing the occurrence of conflicts tomorrow by preparing to meet them fully today. If he proceeds on the course he has inaugurated, he will eventually discover that the cost of recovery is always greater and more terrible than the cost of prevention.

There is a clear and present danger that we will sacrifice our status as the world's only superpower on the mistaken premise that it is essential to our economic recovery. There is a very real risk that we will end the 1990's with our military manpower and major combat unit strength cut by 40 percent, having replaced our readiness during Desert Storm with hollow forces, and having substituted empty rhetoric for a real capability to meet our strategic commitments.

We must understand that we are entering a budget debate that involves far more than dollars and deficits. We should bring to that debate an understanding that we must only cut Defense when we know the impact of such cuts on our economy and defense industrial base, and when we fully appreciate how our national security and power projection capabilities will be affected.

The new administration has proposed to make a total of nearly $188 billion in defense cuts from 1994 to 1998 in President Bush's original defense budget program, and cuts of $127 billion in the program Congress approved last year. The only net cuts in its proposed budget come from Defense. Net nondefense spending actually increases.

The administration is anticipating unrealistic savings in areas like military pay, and avoiding an accurate assessment of the true potential impact of such cuts on our national security by pretending that they could be obtained at the direct expense of the men and women who won Desert Storm. It is providing no real information on what programs will be impacted, the degree to which they will be impacted, their effects on the economy, and our defense industrial base.

Quite frankly, I do not know if the administration is proposing cuts of this magnitude simply to meet its deficit reduction targets—even though it realizes that they are not attainable—or whether it seriously intends to make cuts which could threaten the security of the United States. In either case, there is good reason for concern.

DEFENSE SPENDING THROUGH SMOKE AND MIRRORS

Since the administration has not yet provided any details with regard to the proposed cuts, I believe it is appropriate to give Members, and the American people, some idea of what cuts of this magnitude could mean. What matters in this debate is one thing: Where we will be at the end of 1998 if we implement the entire Clinton plan, not what happens if we implement the part of it that extends to 1997.

I believe that the administration is putting us on a course that could cut our forces by 40 percent between 1991 and the end of 1998. A cut of this magnitude could reduce our total military manpower to about 1.2 million men and women, and result in at least a 20 percent larger reduction of defense industry employees. This would force hundreds of thousands of men and women, including many minorities, to accept involuntary separation from the service.

Despite reassurances from the administration, these cuts may well mean that we could go from 28 Army divisions to around 14. We would go from 13 carriers to 8. We could go from 545 combat ships to 361; from 15 carrier air wings to 10; from 3 Marine Expedition-

ary Forces to 2; from 36 Air Force fighter wings to 21; and from 268 bombers to 145.

The remaining forces could well be hollow in terms of strategic mobility, sustainability, training, and technology. We could find ourselves without the power projection capabilities that are vital to global stability in the post-cold-war era, and to any concerted effort to replace violence with deterrence and peace making.

To understand these risks, we need to look beyond press releases, and the narrow focus on budget cuts and domestic programs. There are three blatant examples of smoke and mirrors inherent in the literature the administration has issued to support its program:

First, you must search in vain for any details of where the administration's cuts are coming. While he talks about $88 billion in cuts between 1994 and 1997, the only details given concern a proposed $18 billion savings through a Governmentwide pay adjustment, which would, in effect, finance new social spending at the cost of fair pay for enlisted personnel and officers.

Second, the Department of Defense has issued a press release that only reports a total of $88 billion in cuts, but the detailed material issued by OMB shows that the program cuts another $39.3 billion in 1998—a cut that the press release mysteriously ignores. This kind of fast and loose exercise with numbers means that much of the press has ignored the fact that the administration's cuts are at least 45 percent higher than $88 billion.

Third, the administration keeps referring to cuts in military manpower that would reduce our military manpower to 1.4 million men. In fact, however, such figures only cover manning levels through 1997, and again ignore the $39.2 billion additional cuts in 1998. The truth is that it will be almost impossible to sustain a future force level of greater than 1.2 million. The true cuts will be at least 400,000 larger than those recommended by President Bush—enough men and women to field 10 divisions. There must also be massive additional cuts of defense civilian employees and defense industry workers.

The worst aspect of the administration's exercise in smoke and mirrors, however, is that the Congress will be asked to vote on a total Federal budget before it sees a Defense budget and the details of the administration's defense program. We will be required to act before we think, and act on the basis of rhetoric that it is already clear we cannot trust.

We will act in a political climate where few understand that we have already made major cuts in defense spending and were planning further cuts in the coming years. We could support a program that adds up to waste, weakness, and welfare, and effectively turn the congressional budget process into a threat to national security.

THE PEACE DIVIDEND OF THE REAGAN AND BUSH PROGRAMS

To put this issue in perspective, it is necessary to understand what we have already accomplished under the Reagan and Bush administration.

Two years ago, we won a decisive victory against a heavily armed enemy with few American or allied casualties. We did so because we had the best military forces in the world. We had the best trained and most combat-ready men and women. We had the best weapons, intelligence, communications, and logistics. We were ready to project power anywhere in the world, and to sustain our forces in combat.

That victory came in combat, but we had won an even more important victory earlier without any casualties and without firing a shot. We had demonstrated a level of military capability and resolve that helped catalyze the collapse of the Soviet Union and Warsaw Pact. We had responded to a massive Soviet military buildup, and shown the leaders of the Soviet Union that they had no hope of dominating or intimidating the West.

We would never have won either victory if it had not been for the buildup in our forces and defense spending during the Presidency of Ronald Reagan. President Reagan took office at a time when we had hollow military forces. Forces that were underequipped, undertrained, lacking readiness, and lacking sustainability. By the mid-1980's, he had reversed that perilous situation, and created a mix of high technology new weapons programs that convinced the leaders of the Soviet Union that their arms race was unwinnable.

Since that time the cold war has ended, and the Soviet Union and Warsaw Pact have vanished into history. President Reagan and President Bush have signed the most successful arms control agreements in history—ending Warsaw Pact superiority in conventional forces, eliminating most deployed theater nuclear missiles, and putting us on a path that will reduce the strategic nuclear threat to the United States from more than 20,000 weapons to 3,000—a seven-fold reduction that includes the elimination of virtually every risk from a nuclear first strike.

During the last 4 years, President Bush took advantage of these changes to affect a massive peace dividend. He carried out a series of carefully planned and managed cuts in defense spending. As a result, the United States has saved over $330 billion relative to the peak spending levels of the Reagan buildup in 1985. In fact, defense spending has dropped by nearly one-third in constant dollars.

These savings, however, are only part of the story. Under the Bush administration, defense spending dropped from 27 percent of the Federal budget to less than 17 percent—the lowest share of the Federal budget in more than half a century.

This point is critical because the burden defense puts on Federal spending is not a function of how many dollars are spent, but rather how much defense consumes out of the total Federal budget. Our economy and Federal revenues grow constantly, and when defense budgets drop, they drop far more quickly in terms of the burden they place on total spending than they do in dollars.

Today's defense budget provides vast security benefits while placing only a minor burden on the total budget. It is less than one-third of the 57 percent of the Federal budget we spent at the time of Korea, and less than half of the 43 percent we spent during Vietnam.

In fact, defense spending has contributed virtually nothing to our current budget and deficit problems—the issues that President Clinton says he is trying to address. During the period from 1950 to the present, which includes all of the major increases in the Federal deficit, payments to individuals, the so-called entitlement programs have risen from 18 percent of the Federal budget to over 50 percent.

Defense has also dropped massively as a burden on our economy. We spent 11.9 percent of our GNP on defense at the time of Korea and 9.1 percent during Vietnam. President Bush reduced defense spending to less than 4.5 percent of our GNP today, versus 6.3 percent at the height of the Reagan buildup—this is a reduction of roughly 33 percent in the burden defense places on our economy since the beginning of the end of the cold war.

THE BUSH DEFENSE PLAN AND ADDITIONAL PEACE DIVIDENDS

While some Democrats who defend the Clinton administration's program like to forget this, President Bush also planned major additional defense cuts and peace dividends. Unlike President Clinton, President Bush had a very clear plan for reducing our military forces and defense expenses.

He planned to reduce military manpower by 360,000 people between 1991 and 1997, or from 2 million to 1.63 million. He planned to cut Army divisions from 26 to 18 divisions, aircraft carriers from 15 to 12, combat ships from 536 to 448, Air Force fighter wings from 34 to 26, and strategic bombers from 228 to 181.

Long before President Clinton discovered peace dividends, President Bush was making them a reality. Further, his force cuts would have reduced defense spending to only about 16 percent of Federal spending, and 3.5 percent of the GNP by 1997. By that time, we would have been spending more on the paperwork and overhead costs of medical care than we would have been spending on our national security.

Defense has also been the only part of the Federal budget that has borne its fair share of cuts. Because of increases in entitlement spending and discretionary defense spending by a Democrat controlled Congress, the supposed $500 billion cut in the budget deficit that was supposed to occur between 1990 and 1995 has turned into a $500 billion increase. In contrast, defense spending has been cut by more than called for by the budget summit.

THE DANGEROUS IMPACT OF THE CLINTON PROGRAM

These are realities that we cannot conveniently ignore. They are the statistics upon which the security of our Nation depends. The fact is that the administration is proposing to go far beyond prudent cuts to the 1994–98 defense program.

Now let us be clear about three things:

First, the administration's program clearly extends through 1998. Any analysis of the administration's program that ignores this is meaningless, and so are references to cuts of only 200,000 men or any other adjustment to our defense program that ignores the administration's $39.2 billion cut in 1998—the balloon mortgage of the administration's defense reductions.

Second, we need to understand, that the administration's cuts are incremental to cuts that the Congress has already made.

Third, we need to understand that while many people talk about budget outlays, because these affect the deficit in a given year, it is budget authority that counts when it comes to shaping the trends in total force size and military capability.

Given this background, it is striking that the OMB estimates that the administration relied on in its "Vision for America" list defense expenditures in 1998 of $254 billion, and the total is 21 percent less than the $322 billion recommended by President Bush.

Now remember that President Bush already planned for 25-percent force cuts between 1991 and 1997. We are not cutting defense spending relative to today's force. We are cutting defense spending relative to a force that is already intended to be 25 percent smaller.

There is no easy way to translate such budget cuts into force cuts. In fact, the administration has made it virtually impossible by using smoke and mirrors to obscure the one table that shows its true defense figures on page 121 of "A Vision for America." The administration's estimates use current dollars when only constant dollars reveal real trends in defense spending, and they project a 1998 year for the Bush program when this program formally ends in 1997.

There are also major uncertainties regarding the extent to which the administration believes or does not believe it can seriously freeze the pay of every man and woman in uniform, and defense civilian, for half a decade. It is not clear what it is assuming about inflation. It is not clear what it is assuming about energy tax costs. Moreover, there are some serious questions the administration has not addressed concerning the Bush administration's assumptions about management and efficiency savings.

At least half a billion dollars a year evidently has to be reprogrammed into defense conversion, and some part of $17 billion in additional spending for technology and business reinvestment and defense conversion may have to come out of the defense budget.

Even if we ignore all of these uncertainties, however, we still seem to be going from 25 percent force cuts to 40 percent force cuts. Once all the smoke clears, and we look directly at hard data, there is virtually no way to cut the Bush program in fiscal year 1998 by more than 20 percent without making more than 20 percent cuts in forces. Even if we are charitable about the administration's plans for a pay freeze, this assumption is almost certain to be offset by the undercosting of the 1994–98 program, and by the major diseconomies of scale that raise force costs as we cut our total force structure and defense industrial base.

WHAT DOES A 40-PERCENT FORCE CUT MEAN?

I have already outlined the devastating impact that a 40-percent force cut could have on our status as a world power. In broad terms, it could mean total active military manning of about 1.2 million men and women. It could mean at least 20 percent more cuts in the manpower in defense industry, and cuts of well over 100,000 more defense civilians.

It also could mean cuts of about 2.5 more active Army divisions, at least 1 more reserve division, 2.5 carrier battle groups, 90 more surface ships, 2.5 carrier air wings, 1 MEF equivalent, 3 active tactical fighter wings, 2 reserve fighter wings, and 36 more bombers.

Let me repeat what this would do to the forces that won Desert Storm. During the period between fiscal year 1991 to fiscal year 1998, we would go from 28 Army divisions to 14, we would go from 13 carriers to 8, we would go from 545 combat ships to 361, from 15 carrier air wings to 10, from 3 Marine Expeditionary Forces to 2, and from 36 Air Force fighter wings to 21, and from 268 bombers to 145.

Other risks are less clear because they are far harder to cost, but they are not less important. We already are letting some aspects of our forces to go hollow. We are not buying the major spare parts and advanced munitions we need. We are not keeping our military bases modernized. We are reducing support activities, and we are slowing many other areas of force modernization. We are disguising this by not cutting normal operational and training rates, but the fact remains that we are losing readiness.

We often forget what Desert Storm taught us about shortfalls in our forces. Our modernization of strategic and tactical airlift is far behind schedule, and critical areas like Marine Corps tactical lift are effectively unfunded. Strategic sealift has funds, but little tangible activity. Maritime prepositioning is inadequate and underfunded, as are many aspects of mine warfare. We face block obsolescence in amphibious lift, and we are funding shipbuilding at a rate that can only sustain a 200-ship Navy. We have no clear program to deal with the growing risk that we will face long range missiles and weapons of mass destruction on the battlefields of the future.

Not all of these cuts and problems can be blamed on the administration's program. Some are attributable to undercosting and exaggerated management savings during President Bush's term. Roughly a third are the long term consequences of the budget cuts made by Congress before President Clinton took office.

The fact is, however, that if these figures are even approximately correct, they mean we cannot maintain an effective defense of Asia. We cannot provide security for Israel and the gulf. We cannot provide adequate safeguards for the security of Europe. They also mean we will have no real reserve for peace making and other contingencies. We will probably have lost much of the technology edge we had during Desert Storm. We will have crippled part of our defense industrial base.

STRATEGIC FACTS BEFORE BUDGET CUTS

I hope I am wrong. The administration and Secretary Aspin may have a much more realistic plan than their preliminary budget data indicate. They may have identified a way to maintain the forces we need beyond 1998 in spite of the political and fiscal realities surrounding some of the assumptions made in the administration's plan.

The smoke and mirrors approach that the Department of Defense seems to be using in hiding the full nature of the administration's defense spending cuts does not, however, inspire confidence. Neither do the very real problems raised by the chairman of the Armed Services Committee.

One thing is clear. This body should never accept the administration's 1994 defense program without a detailed explanation of the administration's plan through 1998, and without a clear budget justification of that plan. It should not shift dollars from valid jobs in national defense to half explained programs that may add up to little more than welfare. It should not penalize Defense for a deficit it did not create and does not sustain.

The Congress must not act until it has a Presidential commitment to pre-

serving our security with specific numbers. We must not slash blindly at our security and the security of the world at a time when an adequate defense would consume so much less a share of Federal spending and place so much less a burden on our economy.

Our Vision for America must be guided by the lessons we have learned over the years through so much hardship and sacrifice. They are lessons which carry with them an urgent warning: Conflicts come much sooner to countries who are not ready for them, and victory comes at a much dearer price.

We must not slash blindly at our security and the security of the world at a time when an adequate defense consumes so much less a share of Federal spending and places so much less burden on our economy. Our vision for America must be guided by the lessons we have learned over the years through so much hardship and sacrifice. There are lessons which carry with them an urgent warning. Conflicts come much sooner to countries that are not ready for them, and victory comes at a much dearer price.

Mr. President, I am fully aware that, according to every opinion poll I have seen, somewhere around 4 to 5 percent of the American people are concerned about defense and national security and foreign policy. I think that has been true at several other times in our history. I think it makes it very urgent, however, for those of us who have spent our lives in this area to increase our vigilance and to at least make sure that there is an open debate and discussion of the impacts of draconian cuts in defense on the future of our national security.

Mr. President, I thank the President for his indulgence, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Am I right, Mr. President, that we have a special order that extends to 11:35?

The PRESIDING OFFICER. The time expires at 11:30.

Mr. CHAFEE. I may be inaccurate. Perhaps the Chair can correct me. I thought the Democrats, when they had the floor from 9:30 to 10:30, it was over. Am I correct?

The PRESIDING OFFICER. The majority leader controlled the time to 10:30 and the Republican leader controlled the time until 11:30.

Mr. WELLSTONE. Mr. President, this may be helpful. I came on the floor with the idea that at 11:30 we would be on. I probably will take about 4 minutes, certainly not much more than that.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

DR. DAVID GUNN

Mr. WELLSTONE. Mr. President, I really will be very brief, and this may have already been done on the floor of the U.S. Senate this morning. I think it should. I would, as a Senator from Minnesota, like to express to Dr. David Gunn's family my sorrow that he was indeed murdered yesterday in Pensacola, FL. I think it is just a tragedy for Dr. Gunn and a tragedy for this family.

Mr. President, I do not intend to demagogue on the issue. I cannot believe that people that have been involved in these demonstrations and clinics would ever condone what can only be called murder, but I would have to say on the floor of the Senate today that it is to me unconscionable that this happened, and in my State of Minnesota I could cite for you many attacks on abortion clinics and the people who operate them.

Mr. President, it seems to me that, at the very minimum, in response to what has happened in Florida and in response to this violence that continues that: First, I hope that the FBI will become even more concerned about this kind of domestic terrorism; second, I think it is time for us to pass the Freedom of Choice Act so we as the United States Congress make it clear that, as a matter of law, women have this right to choose without having to be confronted with this kind of terrorism; and third I think it is time to pass the freedom of access to clinic entrances bill to combat this antichoice terrorism, and that is what it is. It is just pure terrorism.

And, finally, Mr. President, I just want to emphasize what I emphasized several weeks ago when I introduced a bill on RU-486. I think it is time to direct the FDA to look at clinical trials of this, take steps to bring RU-486 into this country so that women do not have to be confronted with the kind of terrorism that they are confronted with when they try to exercise their constitutional right.

I guess it is not a time to express any more indignation about what happened than I expressed on the floor of the Senate to otherwise take a terrible tragedy to make your own political points. I would like to one more time say to Dr. David Gunn's family that I believe all of us in the U.S. Senate express our sincere sympathy. And for my own part, I think it was a terrible tragedy. I am so sorry that it happened, and I hope we can take steps here in the Congress to try to put an end to this kind of senseless violence.

Mr. President, I yield the remainder of my time, and I thank the Senator from Rhode Island.

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

Mr. CHAFEE. Thank you, Mr. President. I thank the Senator from Minnesota.

DR. DAVID GUNN

Mr. CHAFEE. Mr. President, I also want to express my grief and deep concern over the horrible murder of Dr. David Gunn in Pensacola, FL. That is a horrible thing to take place in our country. Certainly those individuals who were picketing outside are perfectly entitled to express their views, but to bring it to this extent, murdering someone whose views were different from those of, in this particular case, Dr. Gunn, who was the physician at the clinic and I believe was the owner of the clinic, is totally inexcusable. And to his family, I join the other Senators and our Nation in saying how deeply we regret this, and we send our condolences to his family.

HEALTH CARE

Mr. CHAFEE. Mr. President, if the majority leader and the minority leader were to join together on the floor of the Senate and present a sense-of-the-Senate resolution that said that Congress should enact a health care reform proposal that would bring health care costs under control and that would assure every American, man, woman, and child access to quality, affordable health care, every single Senator would vote for that. There is no question about it.

We all share the same goals—total coverage, access for everybody; in other words, not only have the coverage but have a doctor available to go to or a hospital available to go to, and the cost be under control and the care would be quality care.

Thus, we all want to see our health care system in the United States reformed. The question comes up: How do we do it?

We have seen a multitude of approaches suggested just on the floor of the Senate. For example, some have advocated a Canadian-style system, the so-called single-payer approach, and that indeed has been presented on the floor of the Senate as a measure this year with some four Senators sponsoring it.

Last year, the Democratic leadership of the Senate advocated a mandate on employers to either provide insurance for their colleagues or to pay a very severe tax. That is the so-called pay-or-play proposal. Last year I joined with a number of my Republican colleagues, and the distinguished senior Senator from Utah, for example, was a cosponsor of that measure, and that bill had very significant reforms in our health care system.

Each of these approaches, the Canadian system, the Chafee or the Republican Senators approach, the pay or play, or others, each of them angers or distresses some group in our Nation, some special-interest group if you want to call it that, whether it is labor or whether it is the American trial lawyers or whether small business or whether it is organized medicine. So each of these approaches likewise has

something good that appeals to a lot of Americans and something that does not appeal to many Americans.

As an example, the Canadian system makes health care the responsibility of the Government and limits national health care expenditures. While this approach would guarantee access to every American, it could lead to what I believe to be excessive Government regulation and ultimately to rationing of health care services.

The pay-or-play proposal that the Democratic leadership presented last year would provide insurance to most Americans, approximately something between 95 and 98 percent of all Americans. It would not ration health care. But in my judgment it would do little to control rising health care costs. In other words, there is not much in it for cost containment. And, furthermore, it would result in increased unemployment in our country because of the mandate levied on small businesses that could not afford it.

What about the Republican health care task force proposal? That would provide many more Americans with health care, with health insurance. It would not lead to rationing. It would not cost American jobs. However, it would not guarantee every American access to health insurance. We would not get every American, and, like the Democratic proposal would have done, our proposal did not adequately deal with cost containment.

We are discussing managed competition, which some argue will control costs with minimal Government regulation. Yet, managed competition, by its very nature, relies extremely heavily on managed care. Managed care, by its very definition, limits choice of health care providers. There is, quite frankly, Mr. President, no perfect solution to our health care problems.

Which of these reform proposals does the American public want to see enacted? Well, the answer is, none of the above. What do the American people want, as disclosed by polls and focus groups? They want the following:

First, they want a health care system that is not run by the Government.

Second, they want comprehensive health care services for everybody.

Third, they want to be able to chose their physicians and their hospitals.

Fourth, they want to maintain whatever existing benefits they have and add to them some preventive services.

Fifth, they want to make sure that it costs no more than the present system and hopefully less.

Now, health policy experts in universities or academia across our country will shake their heads over the naivete of the American public. How can the public possibly believe they can have everything for less?

The answer is simple. Here on the Senate floor, as Senators, or out in the campaign trail as politicians, or at town meetings, politicians have told the public that they can have it all. I have heard my colleagues here on the floor tell heart-rendering stories of folks back home who have suffered as a result of the lack of health insurance. Senators have pounded the tables in committee and denounced special interest groups, such as the hospitals or the doctors or the druggists, the pharmaceutical manufacturers, or the insurance companies, and have said we have to do something about this, and have held out hope for some utopian health care reform proposal.

In other words, we, as politicians, have indicated to the American public that there is a magic way of solving our health care problems in America, with little or no increased sacrifice.

As long as this type of talk is emanating from Washington and elsewhere across the country, the public will believe it and will applaud those who indicate that all of this is possible.

So it seems to me that such politicians and other interest groups are as guilty of blocking comprehensive health care reform in this country as those who seek to maintain the status quo. These same individuals and groups could easily doom President Clinton's plan to failure.

As any of us—and many, many Senators in this body are in this group—as any of us who scratch the surface of this business of health care reform in America realize, there is no magic bullet, there is no perfect health care reform bill.

I do not doubt that within the next 2 years we are going to pass health care reform in the Congress of the United States. However, unless the public understands clearly what this all entails—that there are going to be winners and there are going to be losers—if the public has unrealistic expectations about health care reform and then finds those expectations are not met, then we are going to see the whole thing repealed, just as we went through that bitter experience with the Medicare Catastrophic Coverage Act, which seemed to be a splendid program, was passed here overwhelming—something like 83 to 12—and within 18 months was repealed 99 to nothing.

So, Mr. President, I think it is time that all of us attempt to be extremely candid with the American public and with ourselves. There will be winners and there will be losers in any health reform proposal.

While Americans, under the managed competition approach and the way we seem to be going, no longer have to fear losing coverage when they get sick or when they change jobs, many, undoubtedly, will see their premiums increase. This program is not going to result in reduced premiums, in reduced total health care costs in the country. What we hope to do is to reduce the rate of increase that is occurring at such shocking rates currently.

Many will see dramatic improvements in their benefit packages. But, on the other hand, many will lose coverage for certain services that they now have or will be asked to share the costs for those services.

Ultimately, every man, woman, and child in this country will have health insurance, but they will not have complete freedom to choose their doctors or their hospitals. And, furthermore, if some suggest the way to go is through strict price controls, if that is the route that is followed, we may no longer have access to the best and brightest in our educational system, our students going on to medical school and becoming doctors. We may not have that any longer under the price control system.

It seems to me, again, Mr. President, that we owe it to ourselves and to the American public to reduce the rhetoric, to weigh the benefits and shortcomings of every aspect of health care reform, and to admit that compromise will be necessary to develop a reform proposal that will make sense in our country. Unless we bring these realities and public expectations together, our efforts will be fruitless.

So, in summary, Mr. President, we should and indeed will have health care reform in our country. But, at the same time, it behooves all of us to be very, very candid with our constituents and to remind those constituents that this is not going to be easy; that some will have their premiums increased; that there will indeed be coverage for everyone after awhile, but that some regulation is going to have to come into the lives of our constituents who are currently enjoying fee for service type of medical care where they can go to any doctor they want to, any hospital they want to. That, to a great extent, will no longer be possible.

I thank the Chair and I thank my distinguished friend from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

The Chair will advise the Senator that the time allocated to the majority leader and the Republican leader has expired. We are now in morning business, with time allowed up to 5 minutes.

Mr. HATCH. I ask unanimous consent that I might have 10 minutes to continue on after the distinguished Senator from Rhode Island.

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

WHAT IS GREAT WITH AMERICAN HEALTH CARE

Mr. HATCH. Mr. President, I want to praise the distinguished Senator from Rhode Island. He has been, I think, a very good leader on the Republican side on the task force on health care issues. He has, in a dedicated fashion, brought us together on many occasions

to discuss all of the ramifications regarding health care reform. He and Senator DOLE deserve a great deal of credit for their leadership in this area, as well as those on the other side of the aisle who have been leaders in health care issues, as well.

Yesterday, we had the remarkable experience of having President Clinton's wife, Hillary Rodham Clinton, come to our Republican task force and chat with us about health care. And she did a very good job. She indicated she has a wide background of understanding in this particular area.

I think most Republicans really enjoyed having her here. I want to personally pay tribute to her for being willing to stand up and be counted on this issue and to take this responsibility, for which there may not be an awful lot of accolades in the future, because this is a very difficult subject. It is very difficult to resolve. There are people all over the map on these issues. The issues are complex. It takes a great deal of effort just to try to bring people together. I just want to commend her for her effort.

Mr. President, the Republican leadership in both the Senate and the House, have devoted long hours over the past 3 years to looking at the problems confronting health care in America and examining a broad range of proposals to make needed improvements. Important to any reform, in my view, is maintaining intact the vitality of what's great with American health care.

Certain values are built into the American health care system and those values cannot be ignored. We have a tradition of the finest physicians and the most advanced technology diagnosis and treatment of any nation in the world. We are able to choose our own doctors and get treatment when we need it and when we want it.

Our fundamental reliance on individual initiative and the free market has enabled us as a nation to develop our unprecedented excellence in health care. No other country provides as rich a culture to explore the frontiers of biomedical knowledge and to develop innovative therapies. The growth of the U.S. biotechnology industry and the soon to be realized remarkable benefits of gene therapy are but a single example of U.S. preeminence in health care research.

Americans have consistently sought to make progress through individual initiative and the market place. Americans traditionally and explicitly reject the view that government knows what is best for us.

I will continue to stress the appropriateness of the free market as a way to reform health care.

Simply stated, the health care system problem has three components: Cost of care, access to care, and quality of care.

The great challenge is to reduce the rate of cost growth while expanding access and maintaining quality.

Good health care has a price. Americans live longer thanks, in part, to the power of our innovative and sometimes expensive new medicines and medical technology. Obviously, increasing health care costs will continue to correlate with human longevity and development of innovative technology and therapies.

It is easy to point fingers at who should be blamed for rising health care costs. Indeed, some attack the private sector for gouging the sick by charging high prices for innovative life saving medicines and therapies; they believe these drugs should be sold for less money. However, innovative research is costly, and needs to be paid for. Without innovation, many existing therapies would not exist and the patients would have to suffer more or even die.

If we are going to find a cure for AIDS, for which I wear this little red ribbon as a show of compassion for those who have AIDS, then it seems to me it is going to have to come from our pharmaceutical industry. And we ought to be encouraging them rather than bashing them for finding these new therapies and medicines for us at tremendously expensive costs they have to undergo, realizing they have 4,000 misses to bring a marketable drug to the marketplace. Last year we mentioned it costs at least $231 million to get that final marketable drug to the marketplace. So it is easy to throw blame. But we surely want to encourage the pharmaceutical industry to find a cure for AIDS, to find a cure for Alzheimer's to find a cure for cancer, to find a cure for Parkinson's disease, to find a cure for diabetes.

Charges can also be made that government is a significant part of the problem because of reimbursement policies, slow approval for new drugs and devices, burdensome insurance mandates, excessive paperwork, and similar policies. In reviewing our health care system, we need to address systemic problems and to avoid needless blame.

Nearly everyone agrees that a significant portion of health care costs has risen because of malpractice concerns, antitrust constraints, inefficient paperwork burdens, fraud and abuse, and similar systemic problems that create an inefficient and antagonistic environment for health care delivery. For example, malpractice concerns give rise to the practice of defensive medicine, and the burden of expensive malpractice insurance costs. Antitrust laws impose constraints that prevent hospitals and providers from efficiently sharing the use and cost of expensive technology, or limiting the duplication of expensive services, or cooperating together in what would be cooperative technology and medical care and services agreements.

For years the Republicans—I among them—have urged reform of the tort system, particularly malpractice reform. I believe that reform and the use of alternative dispute resolution mechanisms will save billions of dollars now spent on adversarial legal proceedings and defensive medicine. The use of defensive medicine should lessen with a diminished threat of unfounded malpractice litigation. It seems—if you believe a recent front page article in the March 8, 1993 New York Times—that the administration now believes some malpractice reforms may be necessary.

Similarly, costly investigations and enforcement of antitrust laws have added billions to health care costs by preventing hospitals and providers from sharing expensive facilities and technology. I believe we need to reexamine how we define competition within the health care system. We need to identify areas and situations where the antitrust system forces the delivery system to respond in ways that are costly and inefficient.

I believe that the free market can maintain competitive health care prices once we have insurance reform, malpractice reform, antitrust reform, greater disease prevention, and programs for the primary care for underserved populations. Moreover, I believe that these reforms should be given a chance to work first to give the permanent health care reforms an environment which will allow them to flourish.

We should all be concerned that in our enthusiastic search for a treatment for our health care system problems that we do not settle for a cure that is worse than the disease. I believe that we should exercise the same degree of caution in correcting the health care system that a physician would exercise in treating a patient. What would happen if a physician who in attempting to treat a patient for specific ailments used a variety of untested schemes that had a raft of devastating but somewhat predictable unintended consequences? Some of my friends on the other side of the aisle are proposing such radical therapy that the American health care system may become permanently disabled. There is no malpractice system for Congress. We need to be careful that these radical structural changes do not lead to rationed care for patients, or undermine the innovative U.S. health care industry that leads the world in life saving drugs, devices, and other technology and just as importantly, jobs.

Managed competition is now widely discussed. The phrase is a catchy euphemism which implies that competition will flourish or at least work better under Government control. Managed competition is not yet clearly defined, and susceptible to different

meanings. One should recognize, however, that the core concept is a system of health maintenance organization [HMO] type providers under regional or National Government oversight. While American experience with HMO's and PPO's, and other managed care delivery schemes may have much to offer, critics have raised questions about the quality of an access provided by managed care. Moreover, managed care has worked in the United States because other components of our health care system provide, on an as-needed basis, services excluded from managed care plans. Finally, managed care has worked in an American environment that provides consumers with the choice of other health care delivery systems including fee-for-service solo practitioners. For example, the concept of managed care would appear to have great potential difficulty in addressing the health care needs that confront rural areas like those found in my home State of Utah. Thus, I believe that restricting Americans to only one type of delivery system, would restrain the individuality and market mechanisms that have formed the strength of American innovation and health care quality, and ultimately would bring us dangerously close to ineffective nationalized medicine.

Some believe that Government can best control rising health care costs through massive regulation and wage and price controls. We must ask ourselves: "How much Government do we want in health care?" Currently, the Federal Government oversees almost half of the U.S. health care expenditures through payment in Medicare, Medicaid, VA, military, and other health care services and biomedical research. We need to think carefully about whether the Government should control all health care resources?

We all know the limitations of our current regulatory system. The FDA system for approvals of new products is constantly criticized for its slowness. I receive a daily stream of letters raising the question of FDA approval or enforcement. I hear from medical professionals and from patients who ask why FDA is not approving life saving therapies. I am convinced that medical progress in the United States would grind to a halt if a new layer of regulatory burden were added to the burdens already imposed by FDA and other agencies.

I do know that we have a vibrant health care industry, one sector of the economy that is responsible for increasing the number of jobs—high paying jobs—over the past decade. We have the finest hospitals in the world. Patients come to our hospitals from other modern Western countries that have Government regulation of medical care. Have you ever heard of Americans seeking care overseas? The Canadians rely heavily on specialized United States resources to augment their national health care system. Our pharmaceutical and medical device industries are world leaders. We hold a positive balance of payments for these innovations—a status that could change if the administration regulates profits.

In evaluating the seemingly hundreds of health care proposals that come before us, I ask myself the question: Are we going to be better off with this proposal rather than what we have today? I encourage my colleagues and the American people to ask themselves the same question.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

THE PRESIDENTIAL TASK FORCE ON HEALTH CARE REFORM AND THE FEDERAL ADVISORY COMMITTEE ACT

Mr. GRASSLEY. Mr. President, the New York Times has reported that, "It is easier to find out who is in charge of military intelligence for the Joint Chiefs of Staff than to find out who is designing cost controls for President Clinton's health care plan."

Yesterday, a Federal judge enjoined the Health Care Task Force—headed by Mrs. Clinton—from conducting fact-finding or information gathering until it fully complies with the Federal Advisory Committee Act.

Before the Federal Advisory Committee Act, task forces frequently were appointed secretly, met secretly, and spent secretly. They acted as a shadow government, without accountability to the American people.

The law has changed secrecy to open government. All Americans should know what their Government is doing and how it is spending public funds. That is just the way we ought to do things in a democracy.

Under the law, any task force or its subgroups must comply with the act's openness requirements. Committees comprised "wholly of full-time officers or employees" of the Federal Government are exempt. The openness requirements include:

Filing a charter;

Opening each meeting to the public;

Providing timely notice of each committee meeting in advance;

Allowing interested persons to attend the meetings;

And making available the committee's working papers, including minutes of meetings that indicate who was present and provide detailed descriptions of matters discussed and conclusions reached.

In spite of the plain meaning of this act, the President refused to conduct business of the Health Care Task Force in the sunshine.

As a result, several interested parties—among them the Association of American Physicians and Surgeons, the American Council for Health Care Reform, and the National Legal and Policy Center—brought an action in Federal court seeking a restraining order against the task force from meeting until it complies with the law.

The President's position is very disappointing—for one who has ridden into Washington on the horse of change.

And some of the arguments his lawyers put forward stretched credulity. For instance, the Justice Department argued that Mrs. Clinton has a unique status as First Lady and is exempt from the Federal Advisory Committee Act.

But the court chided the administration for seeking "the judicial rewriting of an inconvenient statute."

Judge Lamberth regretted, as I do, "that one of the first actions taken by a new President is in direct violation of a statute enacted by Congress."

But the decision was not a complete victory on behalf of open government. Because in addition to the task force itself, 300 to 400 experts have formed working groups to devise a health care plan.

"Their identity," according to the New York Times "is treated as a White House secret, and they have been told not to discuss their work. In fact, few have been identified and their status in the Government is murky at best."

The court held that the Federal Advisory Committee Act is unconstitutional as applied to these cluster groups.

It found that requiring openness at the meetings of these groups would violate the President's power under article II, section 3 to make legislative recommendations to Congress.

But it is within these cluster groups, within the working of these groups, that the detailed work of devising a national health care system is being done. These cluster group meetings are closed to the public.

The specific issues being addressed by particular cluster groups are not even fully known to the public. These cluster groups compose the Health Care Task Force, and as such should be subject to the same laws as the task force itself. It is simply fiction, Mr. President, to suggest that the cluster groups are somehow distinct from the task force itself.

The President stated before the court decision that opening task force deliberations "would be like opening the White House at every staff meeting we have. We can't do that."

Unfortunately, this statement misses the point of the statute. Opening task force working group meetings to the public is not at all like opening White House staff meetings. The President has every right to keep private the meetings of his staff at which policy is developed.

His staff also can certainly meet privately with individuals. But the formal cluster groups include many individuals from the private sector whose identities have not been publicly an-

nounced. Who are these people? What interests do they represent? What interests are gaining access to the making of very important public policy unbeknownst to the public?

Reports indicate that many of the outside advisers are academics. The assumption, I suppose, is that they are neutral experts without interests to advance and protect, or without ideological axes to grind. Unfortunately, that is not the way the world works. The fact that they might be academics certainly does not provide sufficient assurances that they are without real-world commitments.

If the President is not going to have his own advisers develop health care policy, then the public has every right to know who is developing that policy under this act.

Obviously, complying with FACA is not as efficient or as pleasant for the executive branch as meeting secretly and cooking up a health care plan in the White House basement with the help of a politically favored shadow government.

But our Government does not always make efficiency the highest value. Although the President's proposal will be debated in Congress, public discussion here supplements, not substitutes for, the openness required under the law. So I urge the President to comply with this act regardless of what the court said yesterday.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The time of the Senator has expired.

Mr. SIMPSON. Mr. President, health care, along with employment and the economy, has been at the top of President Clinton's priority list since he was elected. The President's Health Care Task Force is in full swing and Mrs. Clinton has assembled the best and brightest health policy experts in the country to help her fashion a health care proposal which will be presented in early May. Even though we only know the sketchiest details of what the President intends to do, Mrs. Clinton has already begun to crisscross the country talking to the public in hopes of gaining support for the Clinton health plan.

Mrs. Clinton came up to Capitol Hill yesterday to share her ideas with us and to hear our thoughts and concerns about health care and the process the administration is pursuing in crafting a health care plan.

I believe the announced 100-day timeframe for getting legislation to the hill is unrealistic. There are currently too many details which are missing from the President's plan.

The secrecy of the ongoing negotiations within the confines of the White House is also a major concern of mine. The White House task force should lay all of their options on the table and get a real dialog going with the Republicans. We should be working on this issue in a bipartisan fashion and leave our politics behind us. Health care is too important of an issue to the American public to deliberate behind the secretive walls of the White House.

The Republicans want to move forward on this issue—we want all Americans to have access to health care coverage, and we especially want to control the skyrocketing costs of health care. We are confronting an uphill battle and none of us can face this herculean task alone. The administration and Congress must all work together on reforming our Nation's health care system and the Republicans are ready to roll up our sleeves and face the difficult decisions that must be made.

Given the priority he has assigned to resolving the health care issue, how President Clinton handles such difficult negotiations will be a real test of his leadership abilities.

Mr. DOLE. Mr. President, yesterday 35 Republican Senators met with the First Lady, Hillary Rodham Clinton, to discuss Health Care Reform. During our meeting Mrs. Clinton emphasized the President's strong commitment to reforming America's health care system. We welcomed her input and her candor about the work of the White House task force.

What became evident during our meeting is that Mrs. Clinton—and the President—will suffer no shortage of advice in this endeavor.

Senate Republicans have been deeply immersed in the issue of health care reform for over 2 years now, since the creation of our Health Task Force, ably chaired by Senator CHAFEE.

Mr. President, if one point was emphasized more than any other during our meeting it is that, no doubt, health care is an issue that cries out for bipartisan cooperation. It will be nearly impossible to pass any major reform without it. While we welcome continued meetings with the First Lady and other members of the task force, what is essential to this process is that these gatherings move forward from get-to-know-you sessions, to real bipartisan substantive negotiations on responsible health care reform.

We have expended enormous resources to build the finest health care delivery system in the world. Unfortunately, Mr. President, it is a system that fails to include all Americans and that is consuming more and more of our resources.

Mr. President, while my colleagues and I are just as eager to address these very real problems in our system, what concerns us—and what we emphasized to the First Lady—is that we not destroy what we know to be the good and strong points of our current system—or ignore the realities of the needs of a diverse population in a country the size of ours.

We also need to pay special attention to the needs of our rural population. Rural health care is not a miniature version of urban health—I have questioned for some time how managed competition will work in Russell, KS, for example, where there are only a couple of doctors.

Mr. President, the challenge is to develop a fair and equitable health care strategy to make health care available to all Americans through a competitive private sector health care system—with the Government serving as a backup for those who have no access to private insurance.

Perhaps the real challenge is to accomplish this without ravaging the economy—without hurting small business—and without further straining our thinning budget.

Mr. President, as a group, Republicans continue to be fully committed to reforming our health care delivery system. We continue to meet consistently on a weekly basis and will remain committed until health care costs are contained and all Americans have access to the system.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 10 minutes.

CUT SPENDING—DO NOT RAISE TAXES

Mr. FAIRCLOTH. Mr. President, I know many Senators are sincere and well meaning when they try to defend President Clinton's budget plan, but I am opposed to it.

I see things differently than many in Washington. I come from the private sector as a farmer and businessman who has met a payroll every Friday for 44 years.

Common sense tells us that Government cannot tax us into prosperity. Nor can it spend us rich.

Before President Clinton did one thing to the budget, Congress was already operating on a budget plan that automatically increased spending every year for the next 5 years. Congress was already operating under a budget calling for $245 billion in spending increases in the next 4 years.

Instead of cutting that spending increase, President Clinton proposed a plan that adds $178 billion in spending increases on top of the $245 billion already in the law and more to come with the health care tax.

Congress has balanced the budget one time in 32 years. But in 28 out of those 32 years, Congress has increased taxes usually in the name of reducing the deficit—none of these tax increases have reduced the deficit.

Now President Clinton proposes another tax increase of over $360 billion—the largest tax increase in history by far.

The American people are asking and should ask the question: What makes

anyone think the 29th tax increase is going to do any better job reducing the deficit than the 28 failed ones that came before?

The Clinton program is not change. President Clinton's program is more of the same, a repeat of tax-and-spend economics that brought us the deficit. President Clinton promised to change things in Washington. I do not see how he is doing anything different than the Congress did in 1990 with the so-called deficit reduction tax increase. And we know what it brought us: A greater and extended recession.

What makes anyone think it is going to work any better in 1993 than it did in 1990?

The Congressional Budget Office, the agency the President says we should look to for honest figures, reports the Clinton program falls $107 billion short of the deficit reduction goals he promised. The Congressional Budget Office reports the Clinton program actually increases the deficit in 1993 and the deficit rises sharply in 1996 and on into the future.

I predict the $107 billion hole in the Clinton plan is just the start because raising taxes costs jobs. Fewer jobs means fewer taxpayers and a slower recovery, a repeat of 1990.

The new Clinton tax on energy, according to the National Association of Manufacturers and the American Petroleum Institute, will wipe out about 700,000 jobs. We need more taxpayers—not fewer taxpayers—and fewer people on welfare. If raising taxes was the road to prosperity, we would all be residing in economic heaven today.

There is a commonsense alternative to Clinton's plan. If this Congress will limit the growth in domestic spending to 2 percent per year for the next 5 years, we would reduce the deficit by $568 billion—that is $200 billion more in deficit reduction than President Clinton even promises with the largest tax increase in history.

It is time Congress got serious about cutting spending starting right now by stopping the $178 billion in spending increases President Clinton proposes.

I did not come to Washington to raise taxes.

I came to Washington to work for reduced spending. Since I have been here and observed the somewhat casual attitude with which so many Members of Congress view debt, I am reminded of an event in my life when I was a young man of 21, or maybe even a little younger. I was trying to buy some trucks, heavy trucks and equipment, and the bank would not make the loan without my mother's endorsement. She was not at all anxious to do so. So after about a week, I came in to lunch one day and she handed me a handkerchief on which she had written what I proposed as income, and on the other side a column she had written of what I was going to have in debt and what the debt service would be. She handed that handkerchief to me and said, "Go and wash it."

Well, when I put the handkerchief under the spigot, I found she had written my debt in indelible ink and my income was written in food coloring. It immediately evaporated. And she said, "Never you forget that your income can go in an instant, but your debt will be with you until you pay it, plus interest."

That is a lesson that so many Members of the Congress have never had. If every Member of Congress had accepted that degree of fiscal responsibility, we would not have the deficit we have today. The only way, and the one way, to reduce the deficit is simply to cut spending. We must muster the fortitude to do it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent to speak as if morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 563 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MOSELEY-BRAUN. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. 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 addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized, under a previous order, for 10 minutes.

THE BUDGET

Mr. GRAMM. Mr. President, I thank the Chair for the recognition.

I wanted this morning to talk about the budget which is on its way to the floor of the U.S. Senate. We are going through a markup process in committee. But I think it is fair to say at this point that it is obvious that a majority of Committee members have decided that they are going to vote for that budget. I am also sorry to say that we do not seem to be making a lot of progress in getting people to understand what is in the budget, in part because many people do not want to know what is in the budget.

The other day, Mr. President, I was on a TV show with some people from Wall Street. They kept asking me questions about what is in the budget. Maybe I can define where we are and what the process is that we are going to follow and what the choice is we are going to have to make.

Let me take the so-called Clinton budget as it will come to the floor of the U.S. Senate. In simple numbers, here is what it does over a 5-year period. It cuts defense by $151 billion over a 5-year period and, second, revenues rise over a 5-year period. All of these numbers are in relation to where we are today in 1993.

So as compared to 1993 under the Clinton plan, a 5-year budget, defense will go down by $151 billion, taxes will go up by $1.332 trillion, and nondefense spending will go up by $698 billion.

Let me just give you a figure which to me, Mr. President, is startling. If you took 42 percent of all of the spending increases built into the Clinton budget over the next 5 years and said, let us not allow 42 percent of the scheduled spending increases, you would save $298 billion. And you could drop all these taxes in the Clinton budget—the income taxes, the corporate taxes, the Social Security taxes, the energy taxes; all $298 billion of them go to fund part of this $698 billion increase in spending.

So if you look at the whole 5 years, and you look at where we are today in spending on defense, in taxes, and on spending on nondefense, because there is a built-in increase in nondefense spending of $698 billion over the next 5 years, what that means is, if we could just stop 42 percent of those spending increases from occurring, we could eliminate all of those taxes.

You may well be one of those lucky, rich people that the President wants to tax and you just don't know it yet. If you make $25,000 a year and draw Social Security, President Clinton has made you rich. If you are a working family, you are going to pay, on average, $500 a year from this energy tax, and you, too, are one of those rich people. And you are going to pay these taxes. The sad reality, Mr. President, is that every dollar of those taxes will go to fund new spending built into the budget over the next 5 years.

You might ask the question, Mr. President: Why are we not hearing from more groups that are going to be affected by this budget plan? That is basically what I wanted to address very briefly here this morning. You have a combination of factors at work.

First of all, you have a bunch of big, powerful interests who want something in return for their support of the President's plan.

I have a clip here from the Washington Post, last Sunday, entitled, "Japanese Auto Sales Limits Urged."

It says:

Executives of the big three U.S. car companies are seeking a European solution to limit

the growth of Japanese car sales in the United States by setting a fixed percentage for Japan's share of the U.S. auto market, industry sources said yesterday. The officials have offered in return to strongly support the Clinton administration's proposed energy tax and the rest of the economic package.

In other words, if President Clinton will protect them from foreign competition, then they are going to support his budget.

So they have apparently endorsed it and they are hoping to be indemnified.

I find people in the natural gas business who come to see me, and say, well, we have a real dilemma because the impact of this energy tax on us is going to be greatly magnified depending on who pays it, whether it is paid at the producer level or the consumer level. So maybe if we sign on to this deal, maybe we can get it imposed on the consumer level and not on the producer level.

Then we have the president of Northwest Airlines who says, well, I am for this plan, but I do not want to remit the excise tax on the tickets that I sell if we are losing money.

Mr. President, the sad reality of this is it all has a familiar ring. The familiar ring is the special interest groups, big business groups, the big labor groups are cutting their little deals with the President. They all want to get indemnified. They are all going to be protected. But who will not be protected? The people who are not going to be protected are the people who cannot cut a special deal with the President. They are not going to get protection from foreign competition. They are not going to get the tax imposed at another level on somebody else. The people who are not going to be protected are the people who do the work, pay the taxes, and pull the wagon in this country.

The people who are not going to be protected are the people who worked all their lives to build up a nest egg, to build up their savings. They are earning $25,000 a year in retirement, and now the President says: We are going to come in and tax 85 percent of your Social Security benefits, so that somebody with $14,000 a year of retirement and $11,000 a year Social Security is going to be in the 76-percent tax bracket. Do you think they are going to come to Washington and offer to support this deal in return for some special gift from the administration? No. They get no special deals; they get only to suffer the very heavy burden of this policy.

Mr. President, the President's policy is very dangerous because it increases spending over 5 years with spending rising far more than taxes go up, so that when you look at the whole 5 years, every penny of new taxes will be spent and every penny of defense cuts will be spent. And in 5 years, taxes will be at record levels and defense will have been cut so far that it cannot be cut any further, and we are still going to have the deficit. When marginal tax rates are 41.5 percent, we are still going to have the deficit.

Finally, if you look at the few savings that are promised in this plan, they are all promised off in the future. In the next 2 weeks, we are going to increase new spending by $21.5 billion, and through an accounting gimmick, none of that money is going to count as spending, as deficit. It is not going to count under the spending cap. We are simply going to have a procedure whereby the President says it is an emergency, so it does not count.

Not until the end of 1995 will this budget even claim to save the amount of money that we are going to spend in the next 2 weeks, and none of those savings are guaranteed. If you look at the savings that are in this budget, they are all promises to control spending in the sweet by and by. Well, my experience tells me that when it comes to saving money in Government, the sweet by and by never, ever comes. Like that old hymn, "In the Sweet By and By," when salvation is to come, we are guaranteed that salvation, and we are all thankful for it. But we are not guaranteed that Government will ever deliver on any of these spending control measures. But we know in the next 2 weeks that we are going to increase spending by $21.5 billion.

Mr. President, if the American people know that for every dollar of spending cuts they get to pay $4.85 cents in new taxes, I do not believe people would support this budget.

So I urge my colleagues to get the facts. Let us remember that most people cannot cut a deal with the administration, and let us represent those who cannot cut special deals to protect themselves.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Yes, the leader time was reserved.

TAXING AND SPENDING

Mr. DOLE. Mr. President, I commend my colleague from Texas, Senator GRAMM, one of the experts on the budget process. Certainly, he articulates the view, I think, of many people. He understands what is in this economic package. I hope my colleagues on both sides of the aisle will take a closer look. The point I want to underscore is the point he made about the special interests taking care of their little problems.

A lot of people out there—as Senator GRAMM rightly stated—cannot afford somebody to take care of their problems. They are the farmers in my home State. I was in my hometown this past weekend, and they know about the taxes. They cannot pass on the taxes to anybody else. They do not like the energy tax. They pay more taxes, but they do not trust us. We are going to spend it on something else.

Of course, big business sort of rolls with the punches. Whether a Democrat or a Republican is in the White House, it does not make much difference. They say: We are big and they will take care of us. The Senator pointed that out.

I hope the business community will understand that this is important to the American economy, and it may be important to their business. They can get their deal taken care of, and the first thing they are going to do is erode the package as far as savings are concerned. It seems it is time to have a little truth in advertising and budgeting. It may not happen, but we can talk about it.

I think the President is a very good salesman. I do not quarrel with what he wants to do—reduce the deficit. I just have a different vision for America. I think we can do it without raising taxing $295 billion. That is the net tax increase.

I want to take just a moment here. My good friend from Tennessee, the chairman of the Budget Committee, Senator SASSER, had a press release saying that the "revision of the President's budget cuts $140 billion off the 1997 deficit, producing a record $502 billion in 5-year savings."

Mr. President, I think we have to point out that this may not be quite accurate. First of all, the chairman's document assumes that President Clinton's plan cut the deficit by $406 billion over 5 years. It does not. Just last week, the Congressional Budget Office, the honest, independent budgeting scorekeeper, told us the Clinton plan only reduced the deficit by $362 billion by 1998.

By that count, that is $44 billion in phony savings. Using CBO's numbers, the Congressional Budget Office numbers, the Sasser plan only produces $458 billion in deficit reduction—$4 billion less than the President claimed less than a month ago in his "Vision of Change for America."

Wait; there is more. Of the $96 billion in additional deficit reduction claimed by Chairman SASSER, $28 billion is in even higher taxes. Using CBO figures, that raises the total net 5-year tax increase in the chairman's plan to $295 billion in increased taxes.

Roughly, $31 billion in additional budget savings comes from stretching out some of the new spending programs over a longer period of time. We are going to spend all of the money, but we are going to spend it more slowly, so we save $31 billion. Try to explain that to anybody in small business or medium-sized business, a farmer, businessman, or businesswoman in America. If you are going to spend $178 billion in new spending, the fact that you spend it in 6 or 7 years instead of 5 makes no difference; you are still going to spend $178 billion. You cannot save

$31 billion, as they claim in the chairman's proposal.

Another $10 billion comes from unspecified spending cuts. Somewhere, we are going to cut spending another $10 billion.

Assuming all of these so-called cuts are legitimate, that brings total net spending reduction over 5 years to $95 billion. The remaining $30 billion in deficit reduction comes from interest savings—interest savings. That is not cutting anything. If they cut all this, they say we will save that much on interest.

I am not a budget technician, but using CBO numbers—and that is the Congressional Budget Office, which the President said we ought to use—simple math tells me Chairman SASSER's plan calls for more than $3 in net new taxes for every $1 of new spending cuts.

The one thing I heard in my hometown from people I know well—Republicans and Democrats, and probably Independents—is that they like more spending cuts. If we can change that around to $3 in spending cuts to $1 in taxes, I think most Americans might say that is not a bad deal. But $3 in taxes for every dollar in spending—and most people do not think we are ever going to get the spending cuts—is not a good deal. There is almost $4 in new taxes for every $1 of the new spending cuts.

Before my colleagues on either side of the aisle blindly follow anybody's plan, whether the chairman's plan—and I commend him, he has a tough job; I know how difficult it is—I think we want to take another look at this proposal. I believe we can do better. Republicans are going to make an effort to do better. We know we are in the minority. We do not have the votes. We are going to offer a number of amendments and an alternative plan at some future time.

So it seems to me that the debate will be when the budget comes to the floor, maybe next week. And we will be in a position to offer what we believe are constructive amendments; real spending cuts, eliminating $295 billion in net tax increases and trying to bring some reason to this so-called deficit reduction plan, which to me is just a big, big, big spending program—spending and taxes, spending and taxes, spending and taxes—the very thing the American people indicated last November they did not want any more of.

So. Mr. President, I know the President feels strongly about his package. I know he is doing a good job telling the American people about the concept. But I hope he will have a press conference sometime, where reporters can ask him specifics about the plan.

Have a press conference, Mr. President. Go out and let the reporters ask you about how much your tax is, how much spending, what is really in the plan; because I have to believe that less than 10 percent of the American people can tell you one thing that is in this package.

They can tell you they like the speech, Mr. President. They can tell you they would like to cut the deficit. But they cannot tell you what is in your plan.

Obviously, the President would rather not talk about specifics. But we think it is time and we will do our best on this side to try to call attention to some of the areas we believe deserve public scrutiny.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. 565 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEATH OF ROBERT W. MITCHELL

Mr. LEAHY. Mr. President, on Tuesday afternoon, Robert W. Mitchell, the publisher of the Rutland Herald, passed away at the age of 82.

Mr. Mitchell was witness to the greatest period of change in Vermont history—from the days of gravel roads and horse-drawn delivery wagons to interstate highways placing our State within hours of the major cities of the Atlantic seaboard.

Fortunately for Vermonters, he was also in a unique position to chronicle these changes as a reporter, editor, and finally the publisher of the most respected newspaper in Vermont.

Bob Mitchell was more than a friend to this Senator. I sought his counsel many times, and my respect for his complete integrity and honesty—a man who always put his community and his State above any self-interest—is unmatched among all my friends in public life.

He was the genius behind a newspaper that is respected as the only journal of record in Vermont. He resisted today's journalistic trend toward fluff, color, and community pandering. He refused to trivialize news and sacrifice content for modern gadgetry with no more meaning to an average reader than the content on a box of breakfast cereal.

I have lost a good friend. Vermont has lost a man who helped shape the State's rich history by reporting it honestly in the newspaper that is the greatest monument to his memory.

I ask that the story on Mr. Mitchell's life that appeared in the Wednesday morning editions of the Rutland Herald, written by Kendall Wild, be included in its entirety in the CONGRESSIONAL RECORD as a final expression of the respect that Vermonters hold for his memory.

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

[From the Rutland Daily Herald, Mar. 10, 1993]

RUTLAND HERALD PUBLISHER DIES AT 82—SHAPED VERMONT ISSUES, CHAMPIONED FAMILY OWNERSHIP OF NEWSPAPERS

(By Kendall Wild)

Robert W. Mitchell, the longtime editor and publisher of the Rutland Herald, died Tuesday afternoon at his home after a long illness. He was 82.

For more than 50 years he was at the helm of Vermont's second largest daily newspaper, where he was a champion of state and local news coverage and an influential force in politics, business and the media.

He once said he considered ownership of a newspaper a public trust and stood for thorough and fair coverage of Vermont. He was a strong advocate for freedom of the press.

His daily editorials in the Rutland Herald reflected a memory of Vermont affairs that reached far into the state's past for illumination of current issues. His addition to The New York Times news service to the pages of the newspaper was an indication of his commitment to excellence in journalism.

Mitchell's death came a year away from the newspaper's 200th anniversary, which will be celebrated in 1994. He took considerable pride in the fact that the Herald is the oldest family-owned newspaper in the country. It also is the fourth oldest continuously published newspaper in the United States.

He had a keen interest in history and already had researched and written about much of the Herald's 199 years.

Gov. Howard B. Dean, who was en route to Ohio when he learned of Mitchell's death, said:

"Robert Mitchell stood for two things very important to Vermont. One was family ownership of state newspapers and the other was First Amendment protection. For half a century, he has been a bulwark on both fronts."

BORN IN RANDOLPH

Robert Watson Mitchell was born in Randolph Oct. 2, 1910, the son of Robert John Mitchell and Stella (Watson) Mitchell. Randolph, at the geographic center of the state and on a bustling railroad, was a trading center for western Orange County and northern Windsor County. His father operated a dry-goods store in Randolph, and before Robert's birth had run similar stores in various Vermont locations, including Rutland.

Bob Mitchell's early experiences were those of most Vermont boys growing up when most roads were unpaved, when practically all long-distance travel was by train, when a lot of local transport was in horse-drawn vehicles, and when automobiles were not unheard of but were still unusual.

As a boy he drove cattle to pasture and went to call them in at night. For that chore he was paid 50 cents a week.

Later as a teenager he was a caretaker at the local country club, and had told about shooting skunks to keep them from digging holes in the golf greens.

The youngster was just beginning grade school when the United States entered World War I early in 1917. But he was old enough to sense the excitement among the adults when people in the town went into the armed services, and the stir that occurred when news came about those who had been sent overseas.

Meanwhile, some of the relatives who came to visit and sometimes stay for extended periods with the family were people who told him stories about their own younger days at the time of the Civil War.

ROBIN, BOB, RWM

In grade school he was called "Robin" but when he became an adult going out into the

world that changed to "Bob," and that's how he signed himself in short notes to staff members, unless he used the familiar initials: "RWM."

As a tall youth at Randolph High School, Mitchell was called upon to play for the school basketball team. The gym was heated by means of stoves in two corners of the hall. The Mitchell basketball career came to an end dramatically when there was a mid-court collision and Mitchell went down with one leg broken so badly it stuck out at right angles to the rest of his body.

He recalled: "I was so busy thinking about one thing and another that it didn't really bother me to see the leg like that—but my brother, who was in the audience, fainted at the sight."

The injury healed and did not interfere with other athletic activities that he enjoyed throughout his life—tennis, golf and swimming.

The boy's mother died when he was 11, and Mitchell became very close to his grandmother, while his father and a succession of housekeepers looked after the family.

Supermarkets were unknown in Vermont in the second decade of this century, but practically every thrifty family in places like Randolph found spots for family gardens to add variety to the regular fare. Work there as a child gave Mitchell the experience he nurtured diligently in later years—an enjoyment for growing things, especially garden vegetables.

INFLUENCE OF DARTMOUTH

Mitchell's father had attended Dartmouth, but a financial crisis occurred in the 1890s when investments by Bob Mitchell's grandfather were embezzled and disappeared. The father had to return to work in the family dry-goods business and much to his regret he never achieved a college degree.

But the father was determined that at least one of his sons would go to college—preferably Dartmouth—and that is where Mitchell went after graduating from high school. The stock market crash of 1929 occurred during his sophomore year, but he worked at odd jobs during the summer and his father managed to save enough from week to week so they could put together enough for tuition. He graduated in the Class of 1932.

Except for reading about them, Mitchell had never had much contact with people of other races until he started at Dartmouth. He used to tell about asking a classmate who was black to go to the movies with him one night in Hanover. It was a natural gesture of friendship that was characteristics of his throughout his life, but he realized later that the classmate might have thought he was doing it to be patronizing.

PASSION FOR DANCING

All during his college years Mitchell indulged in a passion that be retained all his life—ballroom dancing. In the days before discos there were dance halls at many resorts throughout Vermont. And each dance hall featured live bands, some booking nationally known ensembles. The Pomoseen dance pavilion, for example, periodically advertised the bands of Tommy Dorsey, Jimmy Dorsey, Gene Krupa, and many others. They would come for a weekend or longer, and then move on to the site of their next engagement.

Mitchell remarked once that he figured he had been to every dance hall in Vermont, over the course of several summers, at a time when most highways were still unpaved, and automobile durability was considerably less. It was considered a great advance, for instance, when an auto tire company announced production of a tire "that will last 5,000 miles."

During Vermont's 1991 Bicentennial year, television station WCAX of Burlington produced a series of programs from various sites in the state's counties. One such site featured a broken-down and abandoned dance pavilion at Lake Willoughly in the Northeast Kingdom. Mitchell said, "Oh yes, I was there several times."

EUROPE BECKONS

After college graduation Mitchell found he had accumulated enough money ($1,000) to think of visiting Europe. That sum of money was a large amount in those days, and he managed not only to stay in Paris but also to attend the London School of Economics in England. The era of Gertrude Stein, Earnest Hemingway and other expatriates was coming to an end—Hitler was on the rise—but there was enough atmosphere of the previous decade for the young graduate to partake of travel adventures that sound like something out of those writers. Once, years later Mitchell wrote a description of an actual trip from Paris to the Balearics, through Barcelona, that sounded exactly like something Hemingway could have written.

FIRST NEWSPAPER JOB

Back home, and looking for a job, Mitchell soon found one on the Bennington Banner. He had some experience with weekly papers in his home area, but the Banner was his first stint on a daily newspaper. It was owned and operated at the time by a crusty individualistic Bennington man named Frank Howe, who ran the paper the way he wanted, regardless of what would be considered proper newspapering.

A prominent Bennington lawyer once was disciplined by the state board for an infraction. The maneuvers leading up to the disciplinary action were given exposure in many of the state's newspapers. Not a word in the Banner.

Mitchell asked Howe if a story of such local importance would eventually appear in the local paper. Howe replied: "Maybe we won't use it at all."

Shocked, Mitchell said: "But you can't do that." To which Howe replied: "Oh yes I can. I can do anything I want with this newspaper."

It was an exchange which Mitchell was fond of recounting, especially after he came to own the Rutland Herald and various people tried to tell him what he could—or couldn't—have written in it.

FOUNDS PRESS BUREAU

While in Bennington Mitchell fell in love with and married Rita C. Morrissey, member of a family still prominent in that town. Some time later he was offered a job as founder of the Morning Press Bureau, later the Vermont Press Bureau in Montpelier. Since his wife was working in Bennington, the move to Montpelier meant a pay cut for the couple, even though Mitchell's salary at the Press Bureau was considerably higher than he had been paid at the Banner.

The Press Bureau in those days was operated jointly by the Burlington Free Press and the Rutland Herald. (It is now the capital bureau for the Rutland Herald and the Barre-Montpelier Times * * * Argus.) The Free Press paid 55 percent of the bureau's salary and expenses, and the Herald paid 45 percent. That percentage was determined by the circulation figures of the two papers, but the Free Press seldom lost an opportunity to remind reporters who paid the majority of their salaries.

AT THE STATE HOUSE

During legislative sessions other Vermont dailies also contributed and extra reporters were sent to cover House and Senate.

State House news people occupied what was called the "Crow's Nest" under the eaves of the building. It was reached by a winding set of stairs that went up from between the entrances to the House and Senate balconies, so it was a very handy location for quick access to legislative personalities and developments. Windows looked out at the tops of the building's front columns and the place could be stultifyingly hot in summer and chilly in winter. There were no screens, so the Crow's Nest periodically experienced invasions of wasps, sparrows and pigeons, with an occasional bat. (The space is now occupied by the State House air-conditioning equipment.)

From a mechanical standpoint, getting stories to the Rutland Herald and Burlington Free Press was arduous. Less important material could be mailed, but spot news—and there would be a lot of that during a legislative session—had to be sent direct. There was no teletype system in those days. When he had finished writing his stories for the day, Mitchell would pick up the telephone and call the Free Press. Then he dictated his stories, one by one, to someone at the other end. After finishing with the Burlington connection, he would then phone the Herald, and go through the entire process a second time. In light of modern instantaneous transmission that method seems quite primitive, but it was considered quite modern in those days.

In later years Mitchell kept a certain copy of the daily Herald in which every front-page story in that issue was one that he had dictated to Rutland the night before.

DAVID W. HOWE

Working for two newspapers with two circulation areas but often overlapping interests took a certain diplomatic quality. That was especially true since the Free Press was owned at the time by the redoubtable David W. Howe (no relation to Frank Howe of Bennington) who had his own ideas of what should be covered and how stories should be written.

Howe was also quite aware of other functions of a newspaper. Once Mitchell was covering a tourism conference at Bluff Point in northern New York State, David Howe wrote to him: "If you get a chance to talk with Mr. Gilbert (owner of the Hotel Champlain where the conference was held) you can remind him that the Free Press has more circulation than the largest Plattsburgh paper plus the Malone paper, plus the Ogdensburg paper and covers a territory of much more agricultural importance, industrial importance and with much more through tourist traffic than is to be found in the areas of these other three papers.

"Many people who spend a weekend in Burlington and asked where there are deluxe accommodations with good golf and swimming on the lake will be directed to Hotel Champlain with the aid of their advertising.

"It is well in an offhand manner in talking with Mr. Gilbert to remind him what a lucky man he is to get so much advertising with no cash outlay.

"Sincerely yours, David W. Howe."

Mitchell's response at being asked to promote advertising while covering the news has not been recorded. However, he did respond to a Howe-ism uttered at the outset of a statewide political campaign.

Howe had written: "I am sure I do not need to remind you to keep rigidly objective during the forthcoming political campaign. Offi-

cials who are candidates for office tend to be regarded as candidates rather than officials, and the public is not so interested in frequent minutiae and trivialities regarding them."

That was a reference to Gov. George D. Aiken, whom Howe (and the Free Press) figured they would oppose. To Howe's admonition Mitchell responded:

"I always intend to preserve an objective viewpoint in my new stories and will make a special effort to be fair in my political stories during the coming weeks.

"I have found, however, that my idea of fairness frequently makes both sides mad, which may be a reasonable test."

This principal stayed with Mitchell throughout his newspaper career. He made it clear to his managing editors that he supported them in the quest for balanced and objective news reporting.

And his experience with Howe also may have influenced him. He made it a point to try to explain in editorials to the community the necessary separation between the news and advertising sections of the Herald that assured fair news coverage.

GOVERNOR SMITH

The first governor Mitchell covered in Montpelier was Charles M. Smith of Rutland, an amiable person who recently had lost his wife. Smith kept a set of rooms at the Pavilion Hotel next to the State House complex, and Mitchell would drop in on him in the evening after having called his daily stories to Burlington and Rutland. The lonely Smith would invite comment on all sorts of situations which obviously would develop into important news stories. "Well, what shall we do about this?" Gov. Smith would inquire, holding up a few sheets of paper. One such document turned out to be a report on conditions at the state prison in Windsor, which developed into a major story. Other Montpelier reporters went home after finishing their day's work, and often wondered how Mitchell obtained such information. A big issue in the 1936 election was whether to build a highway on top of the Green Mountains, in place of the Long Trail. The Free Press favored the project and the Herald opposed it. Mitchell's efforts at objectivity often reflected his comment that "fairness frequently makes both sides mad." The highway project was defeated.

POLITICAL MOVERS, SHAKERS

The 1936 election also brought George Aiken to his first term as governor, and that began a friendship between Mitchell and Aiken that was to last for the rest of Aiken's life, as governor and then as longtime U.S. senator. It was a personal friendship that endured after Aiken retired from the Senate.

In 1940 Mitchell accompanied the Vermont Republican delegation to the party's national convention in Philadelphia. The delegation contained many prominent people of different political viewpoints, and Mitchell in later years often spoke with amusement about the jostling for leadership that took place even as the convention was under way. That was the year that Wendell Willkie was a dark-horse convention candidate swept into the nomination when the convention members were considerably overawed by Willkie-organized chanting from the spectator galleries: "We want Willkie! We want Willkie!" But the Democrat, Franklin Roosevelt, won a third term in the General Election.

However, the experience gave Mitchell an acquaintance with Vermont's political makers and shakers that was to last for the rest of his career.

To make the trip to the convention in Philadelphia, the Free Press and Herald had advanced Mitchell the sum of $75. He reported on his return that he had spent only $65 and could return the other $10—$5.50 to the Free Press and $4.50 to the Herald. But it was typical of him that he suggested he keep the money and have the two sums deducted from the next expense accounts that he submitted.

BECOMES HERALD EDITOR

Things were going to change for the Mitchells pretty soon. The long-time editor of the Herald, Howard Hindley, died about that time, and the paper's owner, William Field, asked Mitchell to come to Rutland to be editor. He came in May of 1941, in the midst of federal activation of the National Guard and preparations for war. Within six months Pearl Harbor was attacked, and William Field went off to enlist in the armed services. So Mitchell became both editor and acting publisher.

When the war was over, Field decided he wasn't interested in continuing as owner of the Herald, or in taking up life again in Rutland. An avid skier, he was anxious to go to Colorado, where the town of Aspen was about to turn into a popular all-year resort.

PURCHASE OF HERALD

So Field offered to sell the paper to Mitchell, who couldn't come up with the full sum required. Instead, a majority ownership went to Mitchell, and a minority ownership was purchased by Leroy B. Noble, the Herald business manager who had come to Vermont as assistant to Field's father, William H. Field.

The transaction took place in 1948. The joint ownership operated until the 1980s, when Mitchell bought out the Noble interests from L.B. Noble's son, Gene E. Noble.

Meanwhile, Mitchell had suffered the loss of his first wife to an illness which probably could have been prevented if antibiotics had been as accessible as they are today. Left with a small daughter and even smaller son, he subsequently married Virginia Buckingham, whom he had met in Rutland before she moved to Boston. She was the widow of Capt. Ripley Buckingham, who was killed in China in World War II. Capt. Buckingham was the great-grandson of Vermont's Gen. W.Y.W. Ripley. The Mitchells had another son and another daughter.

AFTER WORLD WAR II

In the years right after World War II, Mitchell kept up his activity in politics. He was among those who felt that Gen. Leonard Wing of Rutland should become governor upon return from service in the Pacific during the war. When Wing suffered a heart attack and died shortly after returning home, Mitchell urged Ernest Gibson Jr. of Brattleboro to run for governor. Gibson, a political friend of George Aiken, defeated the incumbent governor, Mortimer Proctor of Proctor, in the Republican primary election. In those days winning the Republican primary in Vermont was tantamount to winning the election.

Mitchell was consulted by other political aspirants, who sought his support before announcing their campaigns. When Gibson stepped down as governor to take the Vermont federal judgeship, Mitchell had a hand in trying to find someone sympathetic to the Aiken-Gibson Republicans who could defeat the candidates of the establishment Republicans.

He acknowledged that he wasn't too successful. After the campaign of 1952 he became less active in Republican doings but started to comment editorially on how the Democrats were on the verge of become a winning force. He supported Republican Robert Stafford of Rutland for attorney general, lieutenant governor, governor, congressman and U.S. senator, and always has a kind word of support for Aiken. But he predicted that, unless the Republican organization mended its corpulent attitudes, the Democrats would win elections. That prediction came true in 1958 with the election of William H. Meyer to Congress, and in 1962 with the election of Philip H. Hoff as governor.

OTHER INTERESTS

In addition to operating the Herald, and continuing his political interest, Mitchell acquired a summer home on Lake Dunmore that occupied to a great deal of his attention during the summer months. He took up sailing and participated with his own craft or as a crew member on the boats of friends for many years.

Skiing was always an interest, even before the days when William Field introduced him to the slopes at Pico. In addition to skiing himself, Mitchell promoted it as an aid to tourism. When Killington Ski Area was first proposed Mitchell supported it very actively, both editorially and in trying to help line up contacts for financing.

KILLINGTON STOCK

To help the fledgling company get started he bought $1,000 worth of Killington stock. In the 1960's some of the news staff felt there was a chance for a conflict of interest between the stories the Herald was covering about Killington's expansion and the fact that the owner of the paper owned stock in Killington. Accordingly Mitchell sold his shares for $2,500 and considered he had made a profit. Not long ago, musing over an annual report of S.K.I. Ltd. (now Killington's owner) he surmised that, if he had held on to his original $1,000 in stock, the various stock splits and increases in value would have made that same stock worth $400,000.

GOLF ENTHUSIAST

Golf was another abiding Mitchell interest. Often on good days in the summer he would leave the office at noon saying: "I'm going to try some golf this afternoon," and could be found on the course at Rutland Country Club. He used the sport to help raise funds for the Vermont Achievement Center, where he was a board member for many years. During a golf tournament Mitchell would buy an insurance policy that would pay off if someone got a hole-in-one at a particular hole on the local course. The beneficiary of the policy would be the VAC.

In later years, after he came to feel skiing was rather beyond his efforts, he became a fixture at the VAC swimming pool, appearing daily, winter or summer, in the early morning.

LOVE OF GARDENING

In the years toward the end of World War II the Mitchell family moved to the residence at the corner of Temple Street and Deer Street in Rutland, where they remained and where their children grew up. Here Mitchell was able to indulge in another passion of his—vegetable gardening. The garden area west of the house became more and more elaborate. He started seeds indoors or under plastic covers very early in the season. As late as the summer of 1992 he was able to boast to friends that his lettuce was among the earliest in Rutland to mature, that his peas had improved greatly, and that his tomatoes provided a promising crop. He showered friends with samples of all three vegetables.

One of Mitchell's outstanding characteristics was his sense of humor a trait he displayed frequently and keenly even during his final days at home.

NEWSPAPER COMPETITION

In the hot metal days of printing Mitchell was very proud of the fact that the Herald won several national typographical awards for excellence in layout. That was in competition with newspapers like the old New York Herald Tribune and the Christian Science Monitor. Then, as with so many other newspapers in the country, the shift to offset printing took place at the Herald in the mid-1960's, and everybody's typography became so much better that the agencies sponsoring the contests gave them up.

Mitchell never lost his sense of competition—of being first and most authoritative with a story, that he had honed as a Montpelier reporter. He transmitted that sense to his personal and business families. When the Burlington Free Press announced one spring that it would begin publishing a Sunday newspaper that October, it was the Mitchell sense of competitiveness that brought the Rutland Herald and Barre-Montpelier Times Argus to their Sunday publications a month or two ahead of the Free Press.

Mitchell instilled in his staff the desire to be first with the news and to be the newspaper with the best understanding of state and local issues. He made sure the editors knew that it was as important to get in the community news as it was to get the big Vermont story.

For a number of years Mitchell was on the board of the local Congregational Church, and served as board chairman during a particularly stressful time when there was widespread disagreement among the members of the congregation as to the status of the minister of that time, and whether he should be replaced.

Mitchell also served on the board of Rutland Hospital, at a time when it was in the process of moving from its old location on Nichols Street to its present site at Allen Street and Stratton Road. He often recounted humorous stories about his efforts at fund-raising among local professional people—some of whom would agree to give only what some deep professional rival had given.

Also in Rutland Mitchell remained active in the Chamber of Commerce and in industrial development. There was a time when he was the mainspring of efforts to create industrial sites in Rutland Town south of the city, and to recruit businesses to fill those spaces. As he once put it to a staff member: "More jobs here mean more chances at improving circulation." He was named "Man of the Year" by the local Chamber, and served on Vermont boards dealing with industrial prospects.

Statewide honors came, too. He was awarded an honorary degree by the University of Vermont in 1985 and last week received an honorary degree, doctor of laws, from Middlebury College. And while he never sought public office for himself, he was still consulted by those with political affiliations.

EDITORIAL PAGE

Until recently, Mitchell arrived at the Herald office every day to prepare at least one of the next day's editorials. One of his favorite themes was improvements to Rutland County's highways. Through his editorials and from his 50 years in the business, Vermonters often gleaned a lesson in history on the topics of the day.

MEMORIAL SERVICE

A memorial service will be held at 2 p.m. on Saturday at the Grace Congregational United Church of Christ in Rutland.

HEROIC ACTS BY CITADEL CADETS BROWN AND JOHNSON

Mr. THURMOND. Mr. President, I rise today to commend cadets Jimmy Brown and Daniel Johnson of The Citadel, the military college of South Carolina, for selfless and heroic acts they recently performed.

Downtown Charleston, SC, is one of the most beautiful and historic cities in our Nation. A popular place with both tourists and natives, it is an area that is always active and full of people. Unfortunately, its popularity also makes it an attractive place for those who choose to prey on the innocent. On Monday, February 1, 1993, Ms. Patty Weathers' purse was snatched as she was walking to her car. Ms. Weathers was unable to cry for help and it appeared that her purse was gone along with the juvenile who stole it.

As Ms. Weathers' purse was snatched, cadets Johnson and Brown were jogging back to campus after having visited their friend and fellow cadet who was in the hospital recovering from a lacerated throat. Spotting Ms. Weathers and the fleeing criminal, the cadets immediately realized what had happened and gave chase. The young thief did not have a chance as both men, who are star athletes, easily caught the purse snatcher, and held him until the police arrived.

What makes this story all the more interesting is that this was the second heroic act by cadet Johnson in a 48-hour period. Just the night before, Johnson saved the life of a fellow cadet, Layne Dellinger, whose throat was slashed in a late night fight outside a popular Charleston night club. By placing his finger inside Dellinger's neck and closing off a shooting artery, Johnson was able to stop the bleeding and save his friend's life.

I would certainly like to join the Charleston community in saluting these courageous young men, their actions are living proof that compassion and civic mindedness have not disappeared from our society.

TRIBUTE TO MARTHA BARNETTE

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of my constituents, Mrs. Martha Barnette, who recently passed away at the age of 66.

Martha Barnette was a woman who believed in giving to her community. Born in Greenwood, SC, she spent her life helping her fellow citizens in various ways. Her involvement in local causes included serving as an endowment trustee for the McCormick Arts Council; a member of the State museum board; the Greenwood board of directors of Citizens and Southern Bank; and as a deacon and elder of the First Presbyterian Church.

Greenwood is also home to Lander University, of which Mrs. Barnette was a very active and devoted alumna. Her distinguished record of service to this institution was recognized when she was awarded the university's Medallion of Honor.

Mr. President, Martha Barnette was a lovely and public spirited lady who enriched the lives of countless South Carolinians, we will certainly miss her and I would like to take this opportunity to extend my condolences to her family.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt—run up by the U.S. Congress—stood at $4,209,676,722,160.86 as of the close of business on Tuesday, March 9.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime of the taxpayers' money that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck on this long-term and shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on reckless Federal spending, approved by Congress—spending of taxpayers' money over and above what the Federal Government has collected in taxes and other income. This has been what is called deficit spending—but it's really a form of thievery. Averaged out, this astounding interest paid on the Federal debt amounts to $5.5 billion very week, or $785 million every day—just to pay, I reiterate for the purpose of emphasis, the interest on the existing Federal debt.

Looking at it on a per capita basis, every man, woman, and child in America owes $16,389.08—thanks to the bit spenders in Congress for the past half century. The interest payments on this massive debt, average out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it still another way, for each family of four, the tab—to pay the interest alone, mind you—comes to $4,511.40 per year.

Does this prompt you to wonder what America's economic stability would be like today if, for the past five or six decades, there had been a Congress with the courage and the integrity to maintain a balanced Federal budget? The arithmetic speaks for itself.

TRIBUTE TO L.B. ERGLE

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mr. L.B. Ergle, a dedicated educator in my home State of South Carolina who recently passed away.

Leonel Ergle was a man committed to making the world a better place through education. He stressed the "three R's" and enforced a strict code of discipline so that students could concentrate on their studies and develop their minds. Mr. Ergle was known to his students as a serious man, and serious he was—about ensuring his students received the best education he could provide.

During the school year 1926-27, I taught school in Ridge Spring, SC, Leonel Ergle's hometown. I had the pleasure of tutoring two of his brothers, who, like Leonel, were fine men and I have always felt close to the Ergles since this association began.

Mr. President, I would like to take this opportunity to extend my condolences to Mr. Ergle's family and request that an editorial published by the Aiken Standard eulogizing him be inserted into the RECORD following my remarks.

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

L.B. ERGLE

A native of Ridge Spring, Leonel B. (L.B.) Ergle devoted his life to education, and he demonstrated the principles that some say are sadly lacking in schools today.

He was for many years a teacher and school administrator in Lexington, Lancaster and Aiken counties.

He served as principal at Lancaster High School from 1931 to 1952. He then became principal of Langley-Bath-Clearwater School, where he served for six more years before becoming administrative assistant for District 3.

He was a graduate of Furman University and held a master's degree from the University of South Carolina.

He was a Sunday school teacher for 61 years, teaching the L.B. Ergle Class at Langley Baptist Church for 31 years. He was also a deacon in his church.

He was a past president of the Midland Valley-LBC Lions Club and was a former president of the Aiken County Education Association.

He received the United Way Award for community service. He was a member of the Aiken County Council on Aging.

Mr. Ergle died Jan. 8 at an area hospital.

A friend and fellow educator, L.L. Willis, said Mr. Ergle "had convictions and he stuck by them. He was an outstanding educator who demanded discipline. He felt that education would be the salvation of the nation. He guarded every penny of school money as if it were his own, and he felt the same about school property.

"He did not believe in all the frills and outside activities and believed that every minute of school hours should be spent in learning. He believed in strict discipline, and felt that for learning to take place you first had to have the attention of students."

Mr. Ergle played a vital role in the education of thousands of young people during his lifetime, and his influence will be felt for generations to come.

He was a great citizen, an active Christian and a fine human being. We extend our sincere sympathies to his family.

ACTS OF TERRORISM BY ANTI-CHOICE PROTESTERS

Mrs. FEINSTEIN. Mr. President, I was very horrified by the news from Florida yesterday—news that a doctor, married with two young children, who had been working in a family planning clinic in Pensacola, was shot and killed in cold blood by a so-called abortion protester. For too long, the anti-choice extremists have been performing acts of terrorism and cloaking them in acts of protecting life, and the Nation has silently stood by.

The blockades, bombings, arson, and chemical attacks—I have seen them in my own State—all against women seeking health care and those who try to provide such care. They have become so commonplace that the news media does not even report these episodes anymore. But this incident, this killing, this murder, did in fact make news. I can only hope that it will give us pause and make us act to provide some Federal protection to those using and working in health clinics.

I am so very disturbed by the response from the organization sponsoring the protest at the Pensacola Medical Services Clinic. After Dr. David Gunn was shot several times—several times, Mr. President—at his place of employment, the national director of Rescue America had this to say:

While we think Gunn's death is unfortunate, the fact is that a number of mothers would have been put at risk today, and over a dozen babies would have died in his hands. Pro-lifers are asked to pray that he had a chance to ask for God's forgiveness for his part in the abortion holocaust before his demise."

It would seem to me that who was put at risk was Dr. Gunn, and that his death is much more than unfortunate. I am unsettled by the fact that this organization is more wrapped up in the forgiveness of someone who was just murdered than calling into question the actions of his killer. Rather, Rescue America is seeking donations for the family of the murderer, not the family of the victim.

I am outraged by violence of any kind, and this is certainly no exception. One of the deeply held tenets of our country is an individual's freedom of thought and speech. However, individuals do not have the freedom to disregard other's rights, or to disregard the law. Murderers do both.

Clearly, there will be legal action against the man who killed Dr. Gunn. This instance of violence associated with a clinic does not get lost in any Supreme Court decision. It is clearly against the law.

I call on my colleagues to take swift action on legislation to combat all forms of terrorism against family planning clinics and those that use them, eliminating any question about what is legal and what is not legal.

We must also move on legislation that guarantees, once and for all, that American women retain their legal right to choice.

Mr. President, I am deeply saddened by this recent act of violence, and I want to extend my very deep feelings to the family of Dr. Gunn. I hope that the prosecution of his killer will be swift.

I yield the floor.

Mr. BIDEN. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from California and suggest that she has called to the attention of the Senate and the country a circumstance that, I can assure you, will at least be debated here, if not settled here, because I think she is right.

There is a need for us to deal with the violence that has been spawned by the activities that take place at these family planning centers. I assure her—and she knows as a member of the Judiciary Committee—that there will be, I am sure, ample opportunity for us to discuss meaningful ways in which the impact on the hopefully diminishing violence that is taking place. I compliment her for her comments this afternoon.

THE INTERSTATE WASTE MANAGEMENT CONTROL ACT

Mr. WARNER. Mr. President, I was pleased to join recently as an original cosponsor of the Interstate Transportation of Municipal Waste Act of 1993 introduced by Senator COATS and others.

This legislation continues efforts that I have been actively involved in for the past 3 years to give States and localities authority to control the disposal of out-of-State municipal waste within their borders.

My fundamental goal in sponsoring and supporting legislation in this area is simply to encourage communication and consultation between State and local governments, and waste companies when siting landfills and incinerators designed to receive municipal solid waste generated out-of-State.

Since this issue first came before the Senate in 1990, I have introduced my own legislation and worked with Senator COATS to secure Senate action. I am pleased that last year the Senate passed legislation which for the first time gave States and localities the authority to restrict the high volumes of municipal waste entering their jurisdictions for disposal. Unfortunately, the House did not take similar action.

While I concur with the basic principles of this legislation, I was active last year and will again work to modify this legislation to recognize the validity of arrangements or so-called host agreements that exist or are entered into between private companies and affected local jurisdictions.

It is my hope that this legislation will be amended to ensure that the au-

thority to ban or limit waste shipments does not extend to written, legally binding contracts between a private company and a local government willing to accept this waste. I believe we reached a fair balance on this specific issue in the legislation passed by the Senate last year and I will work with Senators from importing States to include a similar provision in this bill.

While Virginia is one of a few States which dispose of over 1 million tons of out-of-State municipal waste, in most cases this waste is entering Virginia with the consent of the affected local governments. Host agreements have been an effective means of providing appropriate compensation to localities who have primary responsibility for land use planning and who are willing to bear the burden of serving these facilities. Host agreements also have allowed for direct participation by local governments in the decisionmaking process of siting landfills or incinerators.

These arrangements between private companies and local governments provide for the kind of consultation that should occur between all parties involved in waste disposal and should be recognized and encouraged in any legislation considered by the Senate.

RURAL TOURISM DEVELOPMENT FOUNDATION

Mr. PRESSLER. Mr. President, late in the 102d Congress, the Tourism Policy and Export Promotion Act was enacted. This new law is essential to the continued prosperity of our Nation's tourism industry—America's largest export and second largest employer. In short, the travel and tourism industry's success equates to America's overall economic success.

The Tourism Policy and Export Promotion Act provides for various directives impacting the travel and tourism industry. It reauthorizes the U.S. Travel and Tourism Administration [USTTA] and requires improved methods for collecting statistical data on international travelers. The law also emphasizes the importance of further developing and expanding tourism markets and marketing programs. Perhaps most important, it creates the Rural Tourism Development Foundation.

The purpose of creating the Rural Tourism Development Foundation is to assist States like South Dakota in efforts to promote rural America as a travel destination. By increasing awareness, greater attention will be drawn to the wide range of unique attractions offered by rural States. A more concentrated promotional effort touting rural America is long overdue. The Rural Tourism Development Foundation will lead this promotional effort.

I am pleased to inform my colleagues that nine board members of the Rural Tourism Development Foundation recently were announced. Each of these nine individuals is a knowledgeable professional in the travel and tourism industry. I ask unanimous consent that the list of these new board members be printed in the RECORD at the end of my statement.

On March 12 and 13, the board members will gather together here in Washington, DC, for their first meetings. I know my colleagues join me in wishing the board members well as they begin the challenging task of developing the goals and directions of the Rural Tourism Development Foundation. I commend each of the members for accepting this challenging position.

Mr. President, at this time I wish to congratulate my friend and colleague, Senator BURNS, for his leadership on the Foreign Commerce and Tourism Subcommittee over the past years. Senator BURNS played an instrumental role in formulating the Rural Tourism Development Foundation. Coming from neighboring rural States, we share an agenda for promoting rural travel and tourism. Although Senator BURNS is no longer serving on the Tourism Subcommittee, I know his strong interest in and support for the tourism industry will continue.

During this Congress, I am pleased to have returned to the Foreign Commerce and Tourism Subcommittee. I look forward to working closely with my colleagues and proponents of America's travel and tourism industry in an effort to strengthen and build this vital sector of America's economy. The economic impact of the travel and tourism industry should not be overlooked.

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

RURAL TOURISM DEVELOPMENT FOUNDATION, BOARD OF DIRECTORS

Gail E. Chehak, Associate Director, The Morning Star Foundation, 403 1/2 Tenth St. S.E., Washington, D.C. 20003.

Susan Edwards, Secretary of Tourism, South Dakota Department of Tourism, Capitol Lake Plaza, 711 E. Wells Ave., Pierre, SD 57501.

Larry McRae, General Manager, Outlaw Inn, 1701 Hwy 93 So., Kalispell, MT 59901.

William H. Morris, Jr., Vice Chairman, Global USA, Inc, 5050 Poplar Ave., Suite 2411, Memphis, TN 38157.

Art Peterson, President & CFO, Kampgrounds of America (KOA), P.O. 30558, Billings, MT 59114.

Ron Evans, President/CEO, Best Western International, P.O. Box 10203, Phoenix, AZ 85064.

Patrick Long, Associate Professor, Tourism Management Program, College of Business and Administration, Campus Box 419, University of Colorado at Boulder, Boulder, CO 80309.

Berlyn Miller, President, Acme Electric, 3373 Procyon, Las Vegas, NV 89102

Tommy Walsh, Chairman, Johnson County Tourism Board, Mountain City, TN 37683.

MURDER OF DR. DAVID GUNN

Ms. MIKULSKI. Mr. President, I rise today to express my outrage at the violent murder of Dr. David Gunn. There is no rational or reasonable justification for such behavior.

My heart goes out to Dr. Gunn's family and friends. There is no comfort in words with any death, but my thoughts are with Dr. Gunn's family.

Yesterday's tragedy sends a chilling message to women and their physicians: Antiabortion extremists will stop at nothing in their effort to prevent women from having the freedom to choose.

They have elevated their war against the freedom to choose to a new level of domestic terrorism. Blocking clinics and taunting women and their physicians, firebombing abortion facilities and chemical attacks are no longer enough. Now women and their physicians have to fear for their lives.

We must put a stop to this outrage. We must guarantee women access to health care services and to the clinics that provide these services. We must pass the Freedom of Choice Act and the clinic access bill. We cannot allow this tragedy to be repeated.

WEST FOREST INTERMEDIATE SCHOOL, OPELIKA, AL

Mr. HEFLIN. Mr. President, today, I would like to tell the story of a remarkable group of teachers at an equally remarkable school in my home State of Alabama. It is the story of a small K–5 school in central Alabama, that has taken great leaps forward and created a top-notch education plan for its students.

In 1991, West Forest Intermediate School in Opelika, AL, ranked at the bottom of the school district. Teachers felt overworked; regulations were outdated; and students were not learning. So, that year, school educators came together and created a new method of education. They changed nearly every facet of the school's operations and the results to date have been remarkable: West Forest's test scores have shot to the top of the district. Parents are becoming more involved and teachers are finding new enthusiasm for innovative ideas.

Mr. President, I ask unanimous consent that an article from the January 10, 1993, New York Times be printed in the RECORD.

Thank you, Mr. President, and I yield the floor.

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

[From the New York Times, Jan. 10, 1993]

CREATING A SPACE CALLED SCHOOL

(By Jill Jordan Sieder)

After 12 years of watching her students perform poorly and express open disdain for the concept of school, Cheryl Deaton, the principal of West Forest Intermediate School in Opelika, Ala., decided to make several radical breaks with tradition. All were designed to remove what she considered to be

structural impediments to learning among her students, 57 percent of whom are black and 5 percent Asian, mostly Loatoians, and 70 percent of whom come from one-parent, blue-collar families in a town where adults never graduated from high school and unemployment is high.

Some of those impediments, Mrs. Deaton says, were rules and policies that were too rigid or impractical for her school. Other obstacles derived from the home lives of students, many of whom have never been read to by a parent. Together they produced an environment that was antagonistic toward children, she says.

Opelika is a manufacturing town of 21,500 that features textile mills and auto-parts makers; West Forest, which includes grades 3 to 5, had been stigmatized locally as the "backward mill school." But by late 1990 teachers there had assembled a reform plan that would tailor school programs to the needs of the students and their families. That plan was impressive enough to win a $750,000 grant from RJR Nabisco's educational foundation. Local and state school officials then gave the school a green light. Project Space was born.

READING AS A GOAL

The reforms had a simple set of objectives: to restructure the school and its teaching methods in a way that would increase student motivation to succeed, improve parental involvement in the learning process and reinvigorate the teaching staff. A primary goal was to increase the amount of time that students and their parents spent reading, individually and together, in hopes that scholastic improvement would follow. Another goal was to transform West Forest into an inviting, not a confining, place to spend the day.

First to go were such time-honored practices as reliance upon textbooks as the primary teaching tool and ability grouping, in which faster learners were channeled into one set of classes and activities while the physically handicapped and slower learners were channeled into another.

Mrs. Deaton did away with the standard classroom setup of rows of desks facing a blackboard and a teacher, which she says takes "ownership of learning" away from students, creating a prison-like atmosphere.

Bells do not ring and students do not change rooms. Children with learning, speech or hearing disabilities are not shuttled out of the main class to another room; the special education teacher comes to them. Anything that smacks of segregation learning, of what Mrs. Deaton calls "the caste system in public schools" that creates undue feelings of inferiority—or superiority—had to go.

In its place has come an educational approach based on teamwork and group learning, where teachers plan lessons together, students tutor one another and parents act as policy makers, classroom aides and at-home tutors. For most of the day students remain in the same room, organized into stations of five or six desks that face each other. Ideally, two children of average aptitude are clustered with one faster and one slower learner.

Teachers act more as "learning partners" than as classroom authorities, letting students direct discussions and plan class projects when possible. Disciplinary techniques that emphasize penalties for bad behavior have given way to less confrontational methods. Now, says Mrs. Deaton, a disruptive student is not automatically sent to the principal's office or hallway, but to a "timeout" corner in the classroom "where he can cool off and still benefit from the ongoing instruction." Later the teacher will talk to the student about his conduct and have him fill out a form explaining his actions.

SMALL-GROUP LESSONS

Many lessons at West Forest are taught with 20 children sitting cross-legged on the carpet in cozy circles, knees touching, encouraging more eye contact and participation. Recently, fourth graders presenting oral book reports in this fashion were so animated in their discussion of "My Girl," the book and the popular film starring the preteen idol Macaulay Culkin, that their teacher, Sylvia Gill, extended the session 20 minutes instead of turning to a scheduled math lesson. That simple move would not have been possible if the State had not waived a policy mandating a tightly segmented school day.

An 18-year veteran of the Opelika school system, Ms. Gill says she was used to having to pry comments out of pupils whose low literacy levels made a reading of a district-recommended classic such as "Charlotte's Web" a chore for many. She attributes the newfound enthusiasm to a curriculum flexibility that allows children and their parents to choose the books they read, noting that literature from the popular culture often reinforces the notion that reading can be fun.

"I was on the verge of early retirement before we changed things around," Ms. Gill said. "Now I'm seeing the lights go on in their heads again, which is why I got into teaching."

One of those lights has illuminated Melanie Strozier, 11, a fifth grader at West Forest. Formerly shy and troubled about her mother's divorce, Melanie no longer cries in school. Now she leads class discussion and has starred in two class plays. "In the third grade we just went by the book," Melanie said. "It was kind of boring. Now we do all kinds of projects and plays, and read more exciting things, and it's a lot more fun."

Monica Hicks-Crump, 31, said her son, Robbie, a third grader, "began begging me to buy him a telescope and books on astronomy" after his social studies, science, math, art and music classes did an interdisciplinary study of the space age. "He's even asking for encyclopedias," Mrs. Hicks-Crump said. "It's hard to believe."

Elbert Smith, 8 described as a "sometimes mischievous and rambunctious" student, has been behaving better since he began participating in a group counseling session offered to all students every morning. "The counseling group is fun," Elbert said, "because you get to help other people solve their problems. We joke around a bit, and then we have a true talk. It gives us a chance to get to know each other."

One of the most popular features of Project Space is the extended school day, which begins at 7 a.m. with an enrichment period called "Blast-off," to accommodate the 75 or so children whose parents' schedules demand they be dropped off early. Children choose among board games, coloring books, rope-jumping and other activities that prime them for the start of school.

At 2:45 p.m., those enrolled in the "Odyssey" after-school program engage in art, music, athletic and club activities until 5:30, when their parents can pick them up. One day the Lovers of Construction were building houses out of Popsicle sticks, while the Young Astronauts were assembling small-scale working rocket ships.

About two-thirds of West Forest's 400 students participate in at least one of the programs, which cost their parents $7 per week. The financial break it gives single parents who cannot afford day care, much less music instructors, has generated measurable good will among parents. Mrs. Deaton says it is largely responsible for the dramatic increase in parental voluntarism, which zoomed from 25 hours logged among 5 parents in 1990 to 1,500 hours among 75 parents last year.

Tara Burton, for example, is a divorced 28-year-old mother of two who works the third shift, midnight to 8 a.m., on the assembly line of the nearby Uniroyal Tire plant. Ms. Burton, whose son, Anthony, was suspended several times last year for bad behavior, says she used to "cancel out" on parent-teacher conferences, because she had an image of school officials as snobbish. Now she is a regular volunteer in the school library, and a counselor says her presence in the school has helped Anthony to "settle down" in the classroom.

Wanda Lewis, a mother who coordinates a parent volunteer center in the school, says that parents are influencing more than morale. Recently they have brought such multicultural fare into the classrooms as the African-American celebration of Kwanzaa, a tradition emphasizing spirituality and African ancestry; Laotian cuisine and origami, and frank discussions of Malcolm X.

The result, Mrs. Deaton says, is that students are better motivated. Standardized test scores of fourth graders rose significantly last year, while disciplinary problems and suspensions schoolwide have been dramatically reduced. "These kids smile when they walk into the building now," she said.

$250,000 IN GRANTS

Perhaps the best news is that local school officials, politicians and businesses are buying into the project. Mrs. Deaton says she has secured $250,000 in grants from foundations and 13 business partners, including the College of Education at Auburn University.

Auburn students and faculty members are using West Forest for training and teaching purposes, extending professional development and library privileges to the West Forest faculty in turn. The Opelika City Council has appropriated one-third of the $3 million needed for a new school building. And Phil Raley, superintendent of Opelika city schools, says the school district plans to assume the costs of the extended day and parenting programs, and is replicating the cooperative teaching techniques in other district schools.

Still, Mrs. Deaton insists, "Even if we didn't have the money to keep up the wild growth, this school will never be the same again. We've just come too far."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Janet Reno, of Florida, to be Attorney General of the United States.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

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DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Janet Reno, of Florida, to be Attorney General.

The PRESIDING OFFICER. The time between now and 2:15 is controlled equally by the distinguished Senator from Delaware and the distinguished Senator from Utah.

Who yields time?

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 5 minutes.

Yesterday the Judiciary Committee, as has been pointed out, already voted unanimously to recommend the Senate nomination of Janet Reno to be Attorney General of the United States.

Mr. President, Janet Reno's record and the testimony before the committee I think portends great promise for her leadership in the Department of Justice.

Janet Reno comes before the Senate, as has been pointed out, with 15 years of experience in the Dade County, FL, State's attorney's office, heading one of the Nation's busiest local prosecutorial offices. Her tough approach to fighting crime won her acclaim with the law enforcement community. In Dade County, she has established a record that would make any prosecutor proud. She is a leader whose office has obtained the death penalty more than 100 times in over 70 different cases. This is a prosecutor who consistently talks about putting mean, bad criminals away and who has a tremendous success record in putting career criminals, that is, criminals who have a record of felony after felony after felony, career criminals behind bars for anywhere from 15 to 50 years to life.

This is a nominee who has not backed away from vigorous penalties for drug traffickers, those people who, as she puts it, "deal in human misery." This is a nominee who, when asked about treatment for criminals said, "It is not going to work unless people in this country mean what they say and if you continue to commit crime there is going to be punishment."

What is also clear for the record, and expressed forcefully in her testimony, is that Ms. Reno is not only a tough prosecutor, she is a leader with a vision, a new vision about how we can begin to prevent crime, the crime that plagues our Nation, victimizes men, women, and particularly children.

In Dade County, Ms. Reno made a priority of problems long ignored in other jurisdictions; the increasing problem of violence by juveniles, of the cycle of violence set in motion when violence occurs in the home among family members, the crime that is fed by illegal drug addiction.

She pointed out to us, Mr. President, unless we get to children early, a chain has already begun. One of the things she observed in her practice as a prosecutor, and is clear from all the empirical studies that have been done separate and apart from her experience, is that those who victimize children were usually victimized as children, and those who observe violence tend to commit violent acts.

There was a direct relationship. And she spoke very well, subsequently at the hearing, about intervening early in the process, about her desire to increase the Federal Government's role as it relates to looking for answers to the juvenile justice dilemma.

She pointed out what has been the experience of the three Senators on this floor, all members of the Judiciary Committee of two different parties, that when we all first came here—and we came roughly in the same timeframe—when we all first came here, the most violent offenders in America were young men about 18 years of age. Today, the most violent crimes in largest numbers are committed by people closer to 15 years of age. That scale keeps dropping, Mr. President. Violent acts among our young are increasing and the age is decreasing.

So she was very eloquent, in my view, about the need for intervention.

And, further, Mr. President, she is the first Attorney General, in going on 21 years I have been a U.S. Senator, the first one that has overwhelming experience at the local end of this scale. Ninety-five percent of all the crimes committed are committed in local jurisdictions. Ninety-five percent of the prosecutions are undertaken by local jurisdictions. Ninety-five percent of the people put in jail are put in local jails.

And one of the biggest problems we have had, Mr. President—and I know our colleagues are probably tired of hearing Senator HATCH and I talk about this—one of the biggest problems we have is the lack of coordination or not sufficient coordination between State, local, and Federal officials.

I think it is going to be a tremendous advantage having a person as Attorney General who, for 15 years has eaten, she drank, and she slept working with the problems of the criminal justice system in a jurisdiction that has, in effect, international jurisdiction. It is the place into which a significant portion of the illegal drugs in the world flow. Other than New York City and Los Angeles—probably other than New York City; maybe even including New York City—it, in fact, is a meeting ground for international crime figures to the local thug on the corner.

And so she has had to be a part of a number of joint operations involving State, local, county, Federal, and, in some cases, international police organizations. She understands the difficulties, Mr. President.

I believe she will be able to, as the first, in my memory, Attorney General with this kind of experience, understand how the Federal Government can better equip the States and localities and better coordinate with the State and local governments the anticrime fighting effort, because the bulk of it falls to them to have to do.

In addition, Ms. Reno will be an Attorney General who is committed to fighting crime fairly and to restoring the integrity of the department, so that Americans of all races and economic strata believe that it deserves the name justice.

Too many Americans distrust the ability of the Federal Government to ensure the fair enforcement of our laws.

Ms. Reno believes in the principle of justice and equality first and foremost. She is an Attorney General who will represent all Americans and will lead all Americans.

And she also convinced at least me—and I believe all of my colleagues on the committee—of another thing.

When President Clinton contacted me early on about recommendations for the Attorney General, I asked him what he was most looking for in an Attorney General, in order for me to be able to give him advice, as he was seeking, I am sure, from many other people, as well. I said, "What, Mr. President, are you most looking for?"

He said, "I want to establish two things: I want to establish that the Attorney General's office can be an office that is free from political influence. I want you folks up on the Hill and the American people to believe that this is an independent operator. My second objective is that I would like very much to demonstrate that justice can be administered by women as well as men, and there are as many competent women to do the job as men."

Mr. President, I would respectfully suggest that President Clinton, albeit not the first time at bat, has hit a home run. He has accomplished both of his objectives.

For one thing that became very clear to me—and I will not speak for my distinguished colleague who leads the committee with me; he can speak very eloquently for himself, but I would be surprised if he had a different impression—I got the distinct impression that if anyone, including the President of the United States, picked up the phone to suggest to Janet Reno should make a political call instead of a call on the substance, in terms of enforcing the laws of the United States, that that person would wish they had not made the call.

That was my impression. I hope and believe my impression is correct. If it is, then clearly President Clinton has met his objective, as stated to me back in late November, that he wanted to have someone who was truly, completely independent, and it was clear to the American people that she was independent, of political influence.

And so I look forward to working with Janet Reno.

Let me say one more thing. I find a great advantage to have an Attorney General who was a State prosecutor who also had to run for public office.

I know this is not a popular thing to say. The fact that she is a politician and stood before the people of her county and stood before the people of Miami and had to say: "Here I am. You can decide whether you like me or not. This is what I believe," and did it five times, sensitizes her to something that I think all too often pure professionals sometimes miss. And that is what is on the people's minds. It has enabled her to do something that I think the next Attorney General is going to have to do, and everyone must do who is Attorney General—bring together very disparate people, organizations, and ideas and reach some consensus about how to deal with our problems.

I believe her significant political skills of having to run for local office in a very large county, which is one of the most heterogeneous counties in terms of its racial and religious makeup of any in the country, will serve her very well and, in turn, serve us very well.

She is a woman of principle. She is extremely bright. She has a keen and palpable understanding of the Constitution and the Bill of Rights and the notion that you are innocent until proven guilty. She has sound judgment.

I look forward, truly looked forward, to working with her as Attorney General.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am honored to stand on the floor this afternoon and express my support for Janet Reno for Attorney General of the United States.

I was very impressed when she first came to my office. She was very candid, very straightforward, very down to earth. I have to say she is a very fine person.

Meeting her family impressed me as well, because they are clearly very good people who, I think many would say, in each case, are the salt of the Earth.

As we listened to Janet Reno make her opening remarks, I have to say that she did so without benefit of notes, and yet she followed her written statement almost word for word. She is a person of great intelligence, she is a person of vast experience, and she is a person on whom I think we can rely to carry out this office of Attorney General in a good way. I share the opinion of Senator BIDEN that she is going to be a tough prosecutor who is not going to be moved by politics in this position.

This is a very important position in this country. We all want to see the Attorney General of the United States disregard politics and do what is in the best interests of the law in this country. And I believe that she will do that.

Mr. President, I am pleased to support the nomination of Janet Reno to be Attorney General of the United States. This is a historic appointment.

Ms. Reno has served for the last 15 years as the State attorney of the Eleventh Judicial District of Florida, based in Miami, FL. Her background as a prosecutor will serve her well in her new position.

There are a number of issues of paramount importance to the people of my home State of Utah and the Nation at large.

Ms. Reno acknowledged my concern that the Federal Government needs to devote adequate resources to combating crime in the more rural States like my home State of Utah. Sometimes the Washington headquarters of Federal law enforcement agencies do not appreciate how real the crime problem is even outside our Nation's urban, industrialized States. She pledged that States like Utah would get their fair share of Federal anticrime resources, and I am determined to work with her to ensure that happens.

Ms. Reno noted that the President is anxious to get the Religious Freedom Restoration Act on his desk so that he can sign it this year. This bill, which Senator KENNEDY and I, along with many other colleagues, are introducing today, restores the application of the compelling interest test to government action which burdens the exercise of religion. Religious liberty is the first freedom mentioned in the Bill of Rights. It deserves greater protection than the Supreme Court gave it in 1990 in the Oregon versus Smith case. I commend her support of this legislation. And I commend the President for writing a letter to Senator KENNEDY saying he supports the legislation and will sign it into law.

I have no doubt that Ms. Reno and I will have our share of disagreements on the issues. But, I am persuaded that she will listen to the concerns of those with whom she disagrees and I look forward to a dialog with her on a range of issues when she is confirmed.

I have no doubt we are going to agree on a lot of issues, too, because she is a person of great common sense, of great experience, and one who I think can fulfill this job with a great deal of ability.

So I am very happy to stand on my feet to praise this fine woman and I look forward to her serving as Attorney General of the United States.

I thank all of my colleagues on the Judiciary Committee for being willing to report her out yesterday after the hearings were ended, and I thank all of our colleagues for being willing to waive the 3-day rule with regard to bringing her nomination to the floor of the Senate, because this is an important decision. This is an important position. It has been left vacant too long. And she will do a great job, in my opinion, in fulfilling the responsibilities of her office.

Having said all that, I want to pay a special tribute to Stuart Gerson, who has been the Acting Attorney General since President Clinton has taken office. He has served this President well. He has served him with loyalty. He has done a very good job, and my respect and admiration and fondness for him has been increased in the process. He is a very, very fine human being and, I suspect, has a great future ahead of him. I think he does look forward to getting back into the private sector and practicing law again. But he has done a good job, and I think the President would be the first to say it, and I hope that he will.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the nomination of Ms. Janet Reno for Attorney General of the United States, because I think she has good qualifications and ample experience, and has the prospects to be an outstanding Attorney General.

We have just concluded 2 days of hearings in the Committee on the Judiciary. We followed an expedited process in having Ms. Reno reported out on a committee vote yesterday afternoon, because of the feeling on both sides of the aisle that the time had come to move ahead. Considering the fact that yesterday was March 10, and we have not had a confirmed Attorney General of the United States since the inauguration, with the nomination of Zoe Baird having been considered and withdrawn, and others under consideration not having been nominated, it is my hope we will move with dispatch to confirm an Attorney General.

Ms. Reno was educated at Cornell and Harvard, has excellent experience as a practicing lawyer, was an assistant district attorney in Dade County, Miami, FL, and an aide in the Florida Legislature before becoming the district attorney for Dade County.

I think it is especially useful to have someone from the State prosecution system, and I make that statement having been district attorney of the city of Philadelphia, a city of some comparable size to Miami, Philadelphia County being somewhat comparable to Dade County. I believe that Ms. Reno is in a position to act to coordinate law enforcement among Federal, State, and local governments in a unique way with her 15 years of experience as district attorney of Dade County.

One of her unique accomplishments has been the Dade County drug court, which has had a diversion program taking first-time non-violent offenders, for whom there is a reasonable chance of rehabilitation, out of the prosecution system and putting them through an

intensive, court-supervised drug treatment program. I think that is an excellent idea.

I think her programs for rehabilitation, to try to have job training and educational training in prison are good ideas, but they have to be balanced against an appropriately tough approach on hardened criminals.

We did examine Ms. Reno to some extent on the statistics in Dade County which showed a somewhat lower conviction rate than neighboring Broward County, somewhat lower conviction rate than the balance of the State, and somewhat lower rate of felony cases which are brought to trial. These facts raise a certain question, but I think notwithstanding that question she merits confirmation.

On the issue of the death penalty, she has a rather unique stand, saying that she is personally opposed to the death penalty, but pledging to act with dispatch to carry out the death penalty, because it is the law of the land. Based on my own experience, I believe the death penalty is an effective deterrent and ought to be used wisely in a limited way, preserving it as an effective tool of law enforcement.

Ms. Reno was questioned extensively on Federal habeas corpus review, which delays the imposition of the death penalty, and she pledged to work for reform of the system which now has some cases pending for as long as 17 years after conviction in the State courts and for an average of some 8½ years.

Those, in brief, are my comments, Mr. President, and I have abbreviated them noting that since I started the distinguished chairman of the Judiciary Committee has come to the floor. The ranking member was on the floor.

I do support Ms. Reno, and I urge my colleagues to support her confirmation for Attorney General.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, first, I know I speak on behalf of the chairman of the committee in thanking Senator HATCH and our Republican colleagues on the Judiciary Committee for their cooperation.

I yield whatever time she may consume to the distinguished junior Senator from Illinois, Senator CAROL MOSELEY-BRAUN.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I feel especially honored to have the opportunity, as a member of the Judiciary Committee and a Member of this body, to vote twice for Janet Reno. I voted for her yesterday, and I will have the opportunity today, shortly, to cast another vote to confirm her as the first female Attorney General of the United States of America.

Seriously, Mr. President, we are living in a dangerous time, at a time when it almost seems that justice is under siege. From the endemic crime that victimized almost one-third of American families last year, to the growing sense in this country that the courts are for the few and not for the many, the Justice Department desperately needs new leadership.

Janet Reno is that leader. She has the experience, the commitment, and the integrity to make her one of this Nation's finest Attorneys General.

For the last 15 years, as Dade County State's attorney, she has stood at ground zero in the war on crime and drugs. She knows firsthand the importance of cooperation between Federal law enforcement agencies and the police and sheriff's departments, who are this society's first line of defense against crime. She understands the importance of coordination of effort to maximize our resources in this important war. She has cracked down on career criminals while offering first-time offenders alternative programs and a pathway out of the life of crime. She has promised prison cells to violent killers, yet offered a helping hand to troubled youth. She understands the importance of crime prevention. And, perhaps most important, in Janet Reno's office, the victims of crime have always received as much attention and concern as the criminals and those who are charged with criminal activity.

The challenges before our new Attorney General are almost frightening. She must make Americans feel safer in their homes, on their streets, and in their communities. She must find a way to curb the epidemic of violence against women, which is one of this country's most shameful secrets. She must reform our civil justice system and implement the sweeping changes heralded by the coming passage of an omnibus crime bill.

I was impressed, as a member of the Judiciary Committee, to review Janet Reno's outstanding record. I was impressed to see firsthand her demeanor and forthrightness in 2 days of testimony before that committee. But, most of all, I was impressed by her promise that, as Attorney General, she will be the people's lawyer. She has the credentials. She has the character, the integrity, and, most important to me, the practical common sense to do the job well.

I know that Janet Reno will represent the people of this country well, and I welcome the opportunity today to confirm her as their champion.

Mr. HATCH. Mr. President, I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Utah yields to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to support the confirmation of Janet Reno to be Attorney General of the United States because I think in her 2 days of testifying before the Senate Judiciary Committee she showed herself to possess all the skills for this job.

First, there is no doubt that she has the intellect and the experience to do the job. She is well educated, and she has had a variety of positions within our legal system, both in the public and the private sector. She will bring these diverse experiences and good performance on the job to her new job as the chief law enforcement officer of our Nation.

Second, she has the temperament to do the job. She demonstrated tenacity as she sat through my questioning and that of my colleagues. She also showed herself to be a compassionate individual. She has deep concerns for those less fortunate in our society and also for—an interest I do not think this body has given enough attention to—the victims of crime and the rights of those victims as well as the constitutional rights of the accused.

Third, she has the integrity to do the job. I believe, in points that I made in questioning her, that she will protect the independence of the Office of Attorney General. Of course, this is one of the most important and sometimes most difficult parts of the job, and probably are the points about this job and this position that have been questioned more by Members of this body than any other aspect of being Attorney General.

But she clearly told us that those who try to bring influence to bear on her decisionmaking about particular investigations or cases, will politely, but firmly, be shown the door. However, she said she will remain accessible and available to talk with interested parties about policy matters.

She addressed this issue in the context of some specific pending matters that I discussed with her. On one of those matters, the pending Ford case in Tennessee, the issue was whether White House officials and Members of Congress intervened on behalf of a Congressman—who wanted to have the judge's order on jury selection reversed.

I discussed that case with her, just as a launching off, not with the specifics of the case because those are immaterial, while Ms. Reno was not involved in this matter, and cannot be held accountable for the actions of department officials, she told us where she would draw the line in a case like this, and she draws it in the right place, and I, for one, will support her any time someone, or some group, tries to get her to erase that line.

And on a particular policy matter in which I have a great interest, I was pleased to hear her endorse the False Claims Act Amendments of 1986. I think for too long, the Department of Justice has not been supportive of many whistleblowers who bring fraud actions to recover tens of millions of

dollars on behalf of our Government. We have collected half a billion dollars just under this act. This law has been a remarkable tool in the fight against defense fraud, and it is already being used to combat health care fraud.

So, I am pleased to offer my vote in support of Janet Reno for Attorney General.

Mr. President, I ask unanimous consent to print in the RECORD the judge's order in the Ford case to clarify the specifics of this case, because this is one of the examples I used in the hearing to ask about her feelings on the independence of the Attorney General.

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

[In the U.S. District Court for the Western District of Tennessee Western Division, No. 87-20193-H(TU)]

UNITED STATES OF AMERICA *v.* HAROLD E. FORD, DOUGLAS R. BEATY, KARL A. SCHLEDWITZ AND DAVID CRABTREE

ORAL RULING ON DEFENDANT'S MOTION TO EXCUSE PROSPECTIVE JURORS AND TO SELECT A JURY FROM THE WESTERN DIVISION OF THE WESTERN DISTRICT OF TENNESSEE BEFORE THE HONORABLE JEROME TURNER, MEMPHIS, TENNESSEE, FEBRUARY 22, 1993

APPEARANCES

For the Government: Mr. Dan Clancy, AUSA; Mr. Gary Humble, AUSA; Mr. Jerry Cunningham, District Attorney Eastern District of TN, 1026 Federal Office Bldg., Memphis, TN 38103.

Ms. Ella Meltzer, Attorney, U.S. Department of Justice, Washington, DC 20005.

For the Defendant, Harold E. Ford: Mr. William McDaniels; Mr. Tom Patton; Williams & Connolly, 725 12th Street, NW., Washington, DC 20005.

For the Defendant, Douglas R. Beaty: Mr. Herbert S. Moncier, Attorney at Law, 507 S. Gay St., Knoxville, TN 27902-1504.

For the Defendant, Karl A. Schledwitz: Mr. Al Harvey; Mr. Kemper Durand, Attorneys at Law, 44 N. Second St., 9th Floor, Memphis, TN 38103.

The COURT: Ms. Meltzer is right, that on Friday evening late in the evening I was contacted by the United States Marshal who stated to me that he had received a call from the Acting Attorney General, who had indicated, as the press has reported, that the Attorney General was going to file a concurrence with the motion of the defendant, Ford, to move this trial—jury selection process once again. I state that only for the record, so I have had some opportunity to consider it for the last two days and to give thought to the processes that are being employed in the disposition of this case, or the attempted disposition of this case.

The defendant, Ford, has, as I suppose everyone in this room knows, filed a motion to strike the petit jury selected during what I consider a fairly grueling eight day voir dire process by counsel in Jackson, Tennessee, from a venire selected from the seventeen counties of the Eastern Division of the Western District of Tennessee. And the motion further suggests that we should select a new jury in the Western Division of the Western District of Tennessee. Today, as I noted, after a weekend of news releases and voluminous media coverage, the Department of Justice has joined in that motion.

I take it that the United States Attorney, from what I have read in the paper, has resigned on account of that decision. That is, the United States Attorney for this district, and the two attorneys assigned to prosecute this case, perhaps I think more than six years ago, have asked to be relieved of the responsibility to present this motion for what they consider to be guiding ethical principles.

The media reported, and the United States seems to confirm, that the Department reached this extraordinary decision after its acting head and a representative of the Whitehouse, Webb Hubbell, met with members of the congressional black caucus, who had earlier met with Mr. Ford's lawyer, and after Mr. Gerson, Acting Attorney General, met with Mr. Ford's lawyer himself.

The jury selection in the Eastern Division took place in this six year old bank and wire fraud case, which originated in Knoxville, Tennessee, where the crimes are alleged to have occurred because in the first instance supporters of Congressman Ford intentionally utilized tactics both inside and outside of the courtroom that were designed, apparently, for the sole purpose of intimidating and influencing the first jury to decide this case in favor of Congressman Ford.

This process continued even in Jackson when we attempted to select a jury, and did, where pickets carried signs around the courthouse and again here in Memphis, after that process had been completed, where ministers have threatened without much subtlety to bring our American system of justice to a halt unless the defendant, Ford, prevails in his effort to seat a jury from Memphis.

The defendant, Ford, and the other defendants in this case were not indicted in Memphis. They were indicted in Knoxville where they are charged with conspiring to defraud banks, not in Memphis, but in East Tennessee, and where three of the five alleged conspirators live, or lived at the time.

The trial was moved to this Western District by a federal magistrate in Eastern Tennessee, not because of any constitutional right, but as I understand it merely for the convenience of the parties. And for that reason, Judge Horton determined that it was appropriate to try this case on the second time here in Memphis.

But because the efforts of intimidation were found to have successfully contaminated the first jury, and because the huge overwhelming media attention given to this case has so inflamed the passions of so many people, both black and white, in the Memphis and Western Division areas, Chief Judge Horton determined that it would be difficult, if not impossible, to select a jury in this division that could try this case free of prejudice and preconceived opinions, and as importantly, free of intimidation and coercion, or coerced influence by people who are not willing to let an impartial jury decide this case on the evidence.

The decision to select a jury in the Eastern Division was thus made nearly two years ago, after the first jury trial was brought to a conclusion without a verdict. The defendants in this case went to the United States Court of Appeals for the 6th Circuit on a Petition for a writ of Mandamus seeking to overturn the determination that a jury would be selected from the Eastern Division, a division that is comprised, as I said, of seventeen different counties.

It was held by that Court, the United States Court of Appeals, that this Court had the authority to issue that order and that the issue could be raised in due course after the trial, if a verdict of guilty is returned.

The Supreme Court of the United States refused to hear arguments on the issue and denied the defendants petition for writ of certiorari in the fall of 1992.

This Judge, having been reassigned to the case by random selection after Chief Judge Horton underwent a serious surgical procedure, was asked by the defendants to revisit this issue, and I did so. And in so doing added to the process my own view of the devastating effect that pretrial publicity in this case rendered both during and after the first trial—before, during, and after the first trial, for that matter.

I have not, in the twenty-seven years that I have practiced as a trial lawyer in this district and have been a Judge on this bench, ever seen such a mass of media coverage. I cannot say that the media has covered this case every day for the last six years, but I think I can say that the newspapers, the television, the radio patrons in this area, have been flooded with the view points of the defendants themselves, one of whom has actively sought such extensive coverage and engaged in belligerent attacks on the prosecutors, the Federal Bureau of Investigation, and the first judge who initially tried this case, all of which scurrilous and defamatory rhetoric has been unsupported by the record, so far as I have been able to find, that is, unsupported by evidence presented to this Court.

The apparent decision by some to try this case by media trial has expanded the publicity in this case to unheard of heights. Other members of this community have likewise used the media in their efforts to saturate the swell of public opinion with racial bias and deny this Court and the citizens of this country the opportunity to fairly and impartially dispose of these charges, whether the answer is guilty or not guilty, under the rules of law that our constitution guarantees apply to every man and every woman, not just some.

For years now, the courts of the United States have led the fight to assure that our constitutional protections are applied to all people of any color or race, and to do this by recognizing that we are not, and cannot lawfully be treated differently under the law on account of our race or color. That means that the law must be color blind, seemingly simplistic, perhaps, but that is our law and it is perhaps—not perhaps, it is the assurance that race will not be used against anyone by the government or its processes, or its laws.

At the same time that our constitution provides for equal protection under the law and forbids the taking of ones freedom without due process of law, it assures that we shall be judged under the law, not by who we are or what color our skin is, but by the laws of this land. Thus, the same laws that apply to the poorest man on the street also apply to the richest, none is entitled to ignore the law by his station in life.

It is this essence of democracy that assures us our freedom from dictators and elite despot. If some are exempt from the enforcement of our criminal laws, then all are subject to the denial and the loss of their freedoms and the pursuit of happiness. The concept of equality carries with it the corollary that no person shall be denied the right to sit on a jury because of race or color, religion or sex, economic status, or national origin. Thus, the Congress of the United States has determined by law, and I quote, "No citizen shall be excluded from service as a petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

Because of the extreme bias reflected during the first trial of this case and still evidenced by mass gatherings, pickets, traffic slow-downs, and veiled threats from people bussed to Jackson, this Court convened in Jackson, using the same lawful processes that apply to everyone in the hundreds of criminal cases tried in this district year in and year out, selected forty-two people from the venire drawn at random, from which the parties were allowed to exclude thirty-two people, leaving a jury of twelve.

The defendants, using all of their challenges, excused twenty white people. The United States excused eight black people and one white person. After challenges were asserted to the manner required by law, with respect to these challenges I required each party to explain the jury excuses which they exercised and allowed the other side to be heard on whether the reasons given were credible and believable. The law allows each party the right to challenge a certain number of jurors for any reason at all, except that these peremptory challenges may not be based on the race of the juror. In order to preclude racially motivated challenges, the parties were required to state, or are required in certain circumstances to state, as they did in this case, a reason for the challenge of a particular juror, and they must show that that reason is race neutral. Each side was required to do that in this case. And although the effect of the appearance of the defendants using all twenty of their challenges to strike white jurors and the government to strike eight black jurors raised in my mind an inference that race may have been a motivating factor for these challenges, each party stated to the Court what I consider to be racially neutral believable reasons for striking the juror that they struck.

The Acting Attorney General has today announced through his attorney in this court that there is no basis for him to conclude that race was the motivating factor in the exercise of the peremptory challenges used by the United States.

If we are truly to become one in a nation, to be integrated in a society where the laws are color blind and all men are equal under the law, then we cannot allow demands of racially fixed jobless to invade our jury system of random selection. A white man, as three of the defendants are in this case, is not entitled to a white jury, or to a given number of white jurors. Likewise, a black man, as one of the defendants is, is not entitled to a given number of black jurors. A Roman Catholic is not entitled to a jury of Catholics. A Jew is not entitled to a jury of Jews. Asians cannot lawfully demand that a percentage of the jury be constituted of Asians, nor can the Italians, or the Irish. Rich men are not entitled to rich jurors, and poor men are not entitled to poor jurors. Our laws say that we are all equal and that the selection of a jury shall be done among equals at random.

Today the United States, at the direction of the Attorney General of the United States, the Acting Attorney General, after meeting with a number of black congressmen called the Black Caucus, after meeting with the defendant, Ford's attorney, has joined with the defendant, Ford, in asking this Court to overrule Judge Horton's 1991 Order and my own Order of 1992, that the jury selection in this case would take place in the Eastern Division, where the people have not formulated such fixed views of this case and have not been subjected to the intimidation, and hopefully are not as subject to intimidation, as residents of this division would be. They will, it is the hope of this Court, be free to decide the issues in this case on the evidence lawfully admitted at trial without regard to race.

The motion made by the defendant and joined in by the United States Attorney General today comes nearly two years after the original order, after writs were requested and denied by the 6th Circuit Court of Appeals, and after an eight day jury selection process, which by the way is the longest jury process I have ever—the longest jury voir dire process I have ever set through. And during that time, we—at least in my view—impaneled jurors who will decide this case on the basis of the evidence presented during the trial of this case, and not based on the race of the defendants or the views of race that have so flooded the media in this city on account of this trial.

It comes after the defendants have seen the racial content of a randomly selected jury and have determined that they want a jury of different racial content. It is a sad day, in my view, when the Acting Attorney General and a representative of the Whitehouse give into a demand that a jury of the United States must be selected by race, that their contempt of fairness means percentages, that equality depends on one's race. And I say that with due respect for the Attorney, Ms. Meltzer, presenting the case on behalf of the Acting Attorney General. This is a concept, though, that equality depends on ones race that I thought was dead and buried in the eyes of the law.

The only reason to disband this jury today is because of their race. The location of the jury selection was decided, as I said, two years ago, and has been properly challenged and has stood the test of those challenges. It is unlawful to exclude jurors because of their race, and that is what the Court is being asked to do regardless of the gloss that is being placed on this request. This, the Court will not do.

Perhaps just as disturbing is the appearance that the Department of Justice has created by this motion that justice in the courts of the United States can be handled differently if one is a member of the United States Congress. And I say this with recognition of the fact that no man wants to be put to trial. But every man is subject to the laws of this country and the grand jury has returned an indictment in this case, which the law requires be disposed of by trail.

Never before have I heard of the Department of Justice asking to disband a jury once its racial content was divulged. The appearance that can be inferred from this motion is repugnant to the Court in view of the fact that the Acting Attorney General has himself recognized that things—I quote, "things occurring outside the courtroom made the first trial of this case a mockery," unquote. Yet, knowing this, and that a jury of known racial content has been selected, the Acting Attorney General would have this Court go through a similar charade as the first trial turned out.

I do not believe that there are any facts offered to support his motion, nor that there is any law that would justify its acceptance. It is untimely. It is denied.

CERTIFICATE

I, Sharlyn A. Phillips, Official Court Reporter, certify that the foregoing is a correct transcript from the record of the proceedings in the above—entitled matter.

SHARLYN A. PHILLIPS,
Official Court Reporter.

Date: February 22, 1993.

Mr. GRASSLEY. I yield the floor.

Mr. SIMON. Mr. President, I yield such time as he may consume to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I thank my distinguished colleague from Illinois. I appreciate his courtesy.

This, Mr. President, is a very proud day for Floridians and for those of us who have been fortunate enough to call Janet Reno a friend. I wish to take this opportunity to express my appreciation to Senator BIDEN, Senator HATCH, and the other members of the Judiciary Committee for the thoroughly professional manner in which they have reviewed this nomination and the expedition with which they have now sent it to the Senate floor for a final vote of confirmation. I believe that the action of the committee and its individual members has been a very appropriate step toward building a new relationship between the Congress and the Department of Justice.

I believe also, Mr. President, that the American people have seen over the past 2 days a truly distinguished public servant. They have seen Janet Reno in an eloquent opening statement in which she talked about the parents who shaped her life and the community that has nurtured her. She responded to a wide range of inquiries from members of the committee. I believe that she has started the process of building a bond between herself and the American people.

In the opportunity that I had to present her to the committee, Mr. President, I discussed the fact that if one had set about drawing a job description for the Attorney General's position in this new administration and then sought out a person who could meet that job description, I do not think the President could have found one who would more completely have fulfilled the challenging characteristics that the Attorney General will have to include than Janet Reno.

Janet Reno will bring to the Office of the Attorney General unique, diverse, deep managerial experience. She is now running one of the largest prosecutorial offices in the Nation, over 900 employees, over 250 attorneys. That office last year filed over 100,000 felony or misdemeanor charges. It is an office which is located in one of the most diverse communities in America dealing with the wide range of criminal justice issues which she will now face in her role as the U.S. Attorney General.

In that position, she has also fulfilled a second important requirement, and that is extensive intergovernmental experience. While she has been a State prosecutor, she has worked closely with all of the panoply of Federal law enforcement agencies, from the Federal district attorney to the FBI to the Drug Enforcement Agency and espe-

cially to the Immigration and Naturalization Service, an agency that has often been described as the stepchild of the Department of Justice. She brings a unique understanding of the operation of those agencies as they touch and affect human beings. She understands the relationship between their activities and the activities of State and local law enforcement. She also is a person who has been willing to put aside the ability to get that big conviction, the headline in the newspaper for a cooperative relationship with other law enforcement agencies. Janet Reno is a person who is interested in results, not who gets credit for the results.

She has had a personal wide range of experience having served in private practice as the staff director for legislative committees and now for almost 15 years as a prosecutor.

Fourth, Mr. President, she brings a unique approach to what it means to be a law enforcement prosecutor official. She understands that it is not just her job to manage the law as it has been given to her, but it is her leadership opportunity to shape the law to be more responsive to the needs of society.

One of the often cited examples is the establishment of a special drug court. She could have enforced the law by just bringing people who had been arrested for nonviolent drug cases before a judge and jury and having them convicted and sent away to jail. That would have been perfectly within her standards as a law enforcement prosecutor. But rather than just do that, she led the establishment of a special drug court, and under that court, with judicial supervision, nonviolent drug offenders have been sent into a treatment program. That program helped these people to overcome, to deal with their drug addiction. Those who were in this program understood that if they failed to accomplish that objective, they would be placed in jail or in prison.

The success rate of that program—and there have been well over 3,000 graduates today—has been in the range of 60 to 90 percent of those persons who come through that program that have not had any further impact with the criminal justice system, an amazing statistic in terms of the success of that endeavor.

That is just one of many examples of a person who has used her creative talents to create a more just society and to save lives.

But let me say one final item which was not on my list of qualifications for the Attorney General when I presented Ms. Reno to the committee on Tuesday. Last weekend I participated in a conference, an overtly political conference, focused on the upcoming 1994 campaigns.

One element of that conference was a discussion of what was the political environment in America as we approach 1994? Frankly, Mr. President, I was appalled at the information provided by some of the best analysts of public opinion and attitude in this country. Public attitude toward public officials and Government is not in decline, it is in free fall.

We are at the lowest level of public esteem in the period of time for which scientific studies of the public attitude have been taken, and getting worse. I think there are a number of reasons why we are going through this free fall of public attitude. One of those is that the public has not been viewing its public officials as having the characteristics that indicate they are genuinely concerned about people and they are prepared to put the people's interest above and beyond and ahead of any personal or special agenda.

I believe that over the last 2 days Janet Reno not only acquitted herself with great distinction, but she made a contribution to enhancing the public attitude toward public service and those who serve the public. Those who watched her over the last 2 days saw a person who is open, candid, and obviously very intelligent without being arrogant. They saw a person who is compassionate. They saw a person who, not just from her words but from her ability to draw from personal experience with children in need, with battered wives, with persons who were at the depths of our society, is clearly a human being who cares deeply about the human condition.

When you talk to persons who are recently naturalized into this country and ask what is it that made them give up their citizenship from another country to become an American, I have found one of the first things that is given as that reason is our system of justice. People feel that in America everybody, no matter where they came from or what their station in life, is going to be treated fairly. For the person who is going to be heading our national Department of Justice to have those qualities that Janet Reno so abundantly possesses I believe will be an inspiration to our citizens, those who have recently joined as naturalized citizens and those who have been fortunate to have been born and spent a lifetime in this country.

Janet Reno knows about those things that shaped her character: Her foreign-born father who came to this country, as she said, with funny clothes and a funny accent, and who never forgot what it meant to be taunted because of that and always had a respect and sensitivity to people who were different; to her mother who, in the most literal sense, built their home, a home which survived the hurricane of August of last year because, as she said, it was built without compromise.

Janet Reno is a human being who is built without compromise.

I might say that as a Floridian who grew up in the same community as did Ms. Reno, I was proud of the comments she made about how much her community had shaped her character; that the diversity of people and experiences that that young and still relatively frontier community of Miami has brought to her life helped shape her character and her sense of public responsibility.

So, Mr. President, it is with great pride that I commend the committee for its action yesterday, and I recommend to all of my colleagues today their vote to confirm Janet Reno to the highest position of justice in our Nation. She will do us all proud. She will be true to her commitment to justice, as she has been throughout her lifetime. She will assist in restoring confidence in democracy to the American people.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida yields his time. The Chair advises the managers that under the previous order, the Senator from Illinois has 17 minutes remaining and the Senator from Utah has 32 minutes remaining.

Mr. SIMON. Mr. President, I yield myself 5 minutes.

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

Mr. SIMON. Mr. President, it is with genuine enthusiasm that we approach this nomination. As the Presiding officer knows, when you are in the party of the President in power, there is frequently pro forma support and, if there is not any strong objection, kind of pro forma support on the other side. I think there is a feeling on the part of the Judiciary Committee that here we have someone who really is going to do a solid job.

I jotted down a few adjectives that I think describe the nominee: independent. I think that is precisely what she will be. When I asked her—because I believe an Attorney General should not be a participant in partisan activities—if Senator BIDEN or I asked her to be at a fundraiser, whether she would come—and Senator BIDEN in jest said, "Well, the answer is 'yes' for Biden and 'no' for Simon"—she said that she would decline doing that. I think that is the right answer.

She is substantial. She is sensitive to the rights of others. Practical and upretentious. I think that is something which really comes through. Very direct and practical. Her opening statement, as someone who has been a student of Abraham Lincoln, had a touch of Lincolnesque in the simplicity and the directness of what she had to say.

I mentioned that I favored the drug czar being removed from politics. Unfortunately, we have a tradition that is the opposite. I am pleased to say that I will be introducing legislation co-

sponsored by Senator HATCH which will statutorily make that clear. But she indicated she favors that approach.

She also indicated—and I think this is the multidimensional nature of Janet Reno—that if the President used two-thirds for law enforcement and one-third for education and drug treatment, it is imbalanced. I might add, if you were to add prison costs to that, it would go up to probably 95 percent and 5 percent.

She said we have to be doing more in treatment; we have to be doing more in education; and she said we have to be reaching out to people long before they end up in the judicial system.

I think we have an unusually fine, competent, practical, sensitive person who is going to do honor to the Office of Attorney General. We had an Attorney General in this Nation who, back some years ago under Gerald Ford, was that kind of a person—Ed Levy. I think Griffin Bell was that kind of a person under Jimmy Carter.

I think we have another person of that kind of stature and ability, and I am pleased to vote for her and commend her to my colleagues.

Mr. President, I yield 7 minutes to my colleague from Ohio, Mr. METZENBAUM.

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

Mr. METZENBAUM. I thank my good friend and colleague from Illinois.

I rise to join him in support of the nomination of Janet Reno to be Attorney General of the United States. This is a historic day. Ms. Reno is about to become the first female Attorney General in this Nation's history, and I am proud, very proud to support her.

President Clinton should be commended for taking yet another step in our ongoing effort to open new doors of opportunity to women and minorities. But make no mistake. Ms. Reno is not being confirmed by reason of her gender. Anyone who reviews her record or spends a little time with her quickly realizes that Janet Reno is superbly qualified to be this Nation's Attorney General.

She is an intelligent and innovative thinker with a distinguished legal background.

Janet Reno has nearly 30 years experience as an attorney. She has worked in both private practice and public service. She has developed a solid law enforcement record and gained valuable management experience during her 14 years as State attorney for Dade County, FL. She has won numerous awards and has a sterling reputation, winning high praise from both prosecutors and defense attorneys.

Best of all, Janet Reno has hands-on, street-level experience in fighting crime. In recent years, our debates over crime have degenerated into contests over who is tougher or who can invent more new death penalties or more new mandatory minimum sentences. Tough talk has substituted for effective action.

I believe that Janet Reno will be the kind of Attorney General whose deeds will speak much louder than her words. She has spent years working with police officers, prosecutors, judges, community leaders, and ordinary citizens in the effort to make our neighborhoods and our streets safer. And she knows that there has to be a balanced approach to our battle against crime. Janet Reno will not shrink from her duty to enforce the law and bring criminals to justice, regardless of whether they are street criminals or white-collar criminals. But she also recognizes that we have got to put more thought and more resources into stopping crimes before they start. She realizes that we have got to make a better effort at preventing children from growing up and becoming criminals in the first place.

Let me say a brief word about one issue which arose during her confirmation hearing. Some of my colleagues on the other side of the aisle have suggested that Janet Reno is firmly in the camp of those who seek to virtually eliminate habeas corpus review—that is just not the case.

Habeas corpus is a crucial backstop which helps to prevent innocent people from being executed and which ensures that the death penalty is carried out in accordance with our Constitution. Like most people who have studied the issue, Janet Reno recognizes that some reform of habeas corpus is needed in order to reduce unwarranted delay and prevent unnecessary or repetitive litigation. But that does not mean that she shares the goal of those here in the Senate who would like to dismantle habeas corpus to destroy it to make it a nonentity.

Janet Reno recognizes that, in the words of former Justice Potter Stewart, "There is more to swift justice than just swiftness." In response to a question from Senator LEAHY on habeas, she stated that:

> I think it is imperative, as we discuss anything in habeas reform, that we address the issue of delay. At the same time, we have got to make sure that the process is fair, that the process is just, and that people are properly and completely represented so that their constitutional rights are worth something and that they are not mere words on paper.

In response to a question from Senator HEFLIN, she stated that:

> I think clearly we have got to reduce the delay involved in carrying out the death penalty. I do not think, however, that that should produce undue and unseeming haste. I am concerned, when I see figures that 40 to 60 percent of the cases are reversed, because people didn't have component counsel upfront pretrial.

Ms. Reno's mention of the 40-percent figure refers to the fact that the American Bar Association has found that 40-percent of habeas corpus petitions brought by death row inmates result in a determination that a significant and prejudicial constitutional error was committed at trial.

The record demonstrates that Ms. Reno understands that habeas corpus is a complicated issue with a number of different dimensions. It is clear that she is not in anyone's camp on this issue. I believe she will bring the same kind of independence and intelligence to this issue, that she has shown throughout her career. It would be folly for anyone on either side of the aisle to suggest that Ms. Reno has committed herself to being an advocate for their particular position on habeas corpus.

The bottom line is that President Clinton has made an outstanding decision in selecting Janet Reno to be our next Attorney General. She has the intelligence, the temperament, the dedication and the experience to do a first-rate job. Most importantly, she has a deep respect for the law and demonstrated commitment to justice.

I urge all my colleagues to support her nomination.

It will be a great day for America when we confirm her.

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

Mr. BIDEN. Mr. President, I yield 3 minutes to my distinguished colleague from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KOHL] is recognized for 3 minutes.

Mr. KOHL. Thank you very much, Mr. President.

Mr. President, I am pleased to cast my vote in favor of Janet Reno as Attorney General. But first I want to compliment Chairman BIDEN for conducting a fair and thorough hearing.

As members of the Judiciary Committee, we had the opportunity to ask her questions and listen to her responses. She is obviously a very intelligent and articulate person. She has been an excellent prosecutor, mastering legal detail with a clear understanding of the Constitution. She meets all the technical requirements to be Attorney General.

She also meets what is, for me, another requirement: Janet Reno understands the devastating impact that crime has on our society. She knows the fear that people feel; she shares our frustration; and she realizes that government has an obligation to protect us and prevent criminals from taking over our streets.

Today crime threatens every city, every town, and every village. From inner-city neighborhoods to rural farm communities, Americans live in fear of being victims. And their fear is proof that our Government is failing to guarantee the basic freedoms of live, liberty, and the pursuit of happiness.

The atrocities are all too familiar: Innocent kids killed in driveby shootings; crack house busts ending in deaths; rapes, beatings, and killings on the evening news. In 1991, violent crime attempts increased 11 percent; there were 6.4 million reported rapes, robberies, and assaults; 6.4 million Americans whose lives were violated, whose hopes were damaged, whose dream of safety was destroyed. And even worse—the rest of us, the hundreds of millions who weren't directly touched by crime—have almost come to accept this behavior and these statistics as normal.

But we cannot accept this. We cannot remain captives in our own homes. We cannot allow thugs to swagger down the street to intimidate and frighten. United, as one people, we must take back our streets.

Success will not come easily, nor will it come quickly. But it must come.

And to make sure, we need a comprehensive, long-term approach, blending education and prevention with incarceration and rehabilitation. And this must start with children at risk—children perhaps as young as 2 or 3 years old. We must do all we can to keep these kids from turning to crime. As for those who do commit crime, we must let them know we will help them if they are willing to work; and if they are not, we are also willing to put them away for a very long time.

If we are to succeed in fighting this onslaught of crime, we need a strong leader. One with great integrity, extensive experience, the vision to see where we must go and the know-how to get there. Janet Reno is that person. I will support her nomination, and am eager and looking forward to working with her in the years ahead.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware that he has 4 minutes remaining and the Senator from Utah has 32 minutes remaining.

Mr. BIDEN. Mr. President, I know that there are several other Democrats who wish to speak on the nomination and that they are on their way.

What I would suggest is, I realize it is taken out of the Senators time on both sides, but I know the generosity of my friend from Utah, and his willingness to yield time on his time.

So what I would do is for the moment suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I realize I only have a few minutes left. Whatever time I have left I would be happy to yield to my friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN] is recognized for 2 minutes.

Mr. HEFLIN. Mr. President, I rise today in full support of the nomination of Janet Reno to be the next Attorney General of the United States. From the time that President Clinton named Ms. Reno as the Attorney General designate, through the close of our confirmation hearings late yesterday afternoon, the Senate Judiciary Committee has very thoroughly investigated her record and probed her mind. It is certainly no fluke that the committee was unanimous in its approval of Ms. Reno to be our Nation's chief law enforcement official. She possesses all of the qualities necessary to enable her to do an outstanding job and to make a substantial difference in the well-being of our country.

The Department of Justice has, as one of its most important functions, the function of protecting the safety of our Nation's citizens. Janet Reno has convinced me that she will carry out that function very effectively. Her background as chief law enforcement official for Dade County, FL, has sufficiently prepared her for this vital Cabinet post. I believe her answers to the questions the committee put to her amply demonstrates her knowledge over a broad range of criminal justice issues, which she will face when confirmed by the full Senate.

I am particularly impressed with Ms. Reno's concern for victim's rights. She has displayed an indepth understanding of the pain and suffering that crime victims endure. She has also shown a history of involving victims in the process and giving them the right to be heard. She has been heralded as an exceptional advocate for victims of crime, according to leading victims' rights organizations nationwide.

Ms. Reno will restore integrity to the Department of Justice and invigorate its personnel in carrying out the mandates in such diverse areas as criminal law, antitrust, civil rights, and environmental law. She is a credit to her profession and will reflect honor upon the Clinton administration.

I will be pleased to cast my vote in favor of Janet Reno's nomination, and I look forward to working with her in the near future.

Mr. BIDEN. 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. HATCH. 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. HATCH. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Chair recognized the Senator from South Dakota [Mr. PRESSLER] for 5 minutes.

Mr. PRESSLER. Mr. President, I rise in support of the nomination of Janet Reno to be Attorney General of the United States. As a member of the Judiciary Committee, I was privileged yesterday to vote for her. I did express to her disappointment in one area, and that is her knowledge of the problems of native Americans on the reservations and off the reservations, as well as non-Indians who live on or near Indian reservations.

There have been several cases before the U.S. Supreme Court arising in Indian country—disputes involving Indian rights pertaining to fishing and hunting, ownership of land, and non-Indians operating businesses on reservations for which they are taxed by both the tribe and the State, to name a few.

Also across the United States, we have both a growing problem and an opportunity arising from gambling, or gaming, on Indian reservations. Under the Indian Gaming Regulatory Act, enacted into public law in 1988, Indian reservations, whether they are in New York, or Florida, or wherever, have the right to conduct the same level of gambling on the reservation as occurs anywhere in the State. As a result, many tribes are engaged in very lucrative gaming activities. With that comes the blessing of having money, we hope, for economic development, if it is used right. But with it comes many problems associated with crime, gambling addiction, and individual impoverishment.

The States are not able to tax Indian gaming proceeds to fund schools, educational institutions and roads that might be used by the residents of the reservations. Indeed, the very roads used to bring people to the reservation to gamble are not being supported by the people using them. This has been a problem throughout the West, Southwest, Midwest, and, indeed, wherever Indian gaming occurs.

When I met with Ms. Reno in my office, I asked her to become familiar with some of these subjects so that we could have a conversation on them during the hearings. I did ask several questions related to these issues. She responded that she had not yet had a chance to properly study them. I accept her response for the moment.

Indians and the non-Indians in Indian country feel they are ignored at a high level in Washington. Everybody expresses an interest in their problems, but it is very rare we get the President of the United States or the Attorney General or someone else at a high level who really get involved with their problems.

Mr. President, I have spent a good deal of my time while serving in the House and Senate working on Indian problems and the problems of non-Indians who live on or near the reservation. I have done this not to get the votes, though I get some votes on the

reservation. Indian people tend to vote Democratic. But I act out of my commitment to native Americans to improve their plight and to develop real jobs on the reservations. There are many problems on the reservations; alcoholism, especially among males, is a major one that we need to address. For many alcoholics dignity can be restored through meaningful jobs. But there also are real problems with non-Indians who live on or near the reservations who feel that the BIA police or the tribal courts are not fair to them, who feel that they could lose deeded land, who have a hard time selling the ranch because of clouds on the title, who may operate a business on the reservation and are taxed by both the State and the tribal government. All these problems need to be addressed, along with issues raised by Indian gaming.

So, Mr. President, I did receive assurance from Ms. Reno. She said she was going to make the concerns of Indians and non-Indians in Indian country a top priority. I hope she is able to visit the reservations and talk to Indians and non-Indians who have severe problems. We need top-level people in Washington interested in their problems.

I shall continue to speak on these issues so long as I am in the Senate. Jurisdictional issues arising in Indian country deserve high priority at the Justice Department. I shall vote for Ms. Reno. I think she will be an excellent Attorney General. I hope and pray she keeps the pledge she made to me that she will make the concerns of Indians and non-Indians in Indian country a top priority.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota yields the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of the nomination of Janet Reno to be Attorney General of the United States. When President Clinton announced Janet Reno's name last month to be the Attorney General, I indicated with enthusiasm that I considered this to be an outstanding choice.

I have known Janet Reno for many years and have the highest regard for her competence, for her integrity, and for her ability to be the chief legal officer of the Federal Government.

These qualities were clearly evident, I believe, in the course of the recently concluded hearings of the Judiciary Committee and of course were reflected in the animous vote by the members of the committee to report her nomination favorably to the Senate.

The details of Janet Reno's legal career are well known. A graduate of Cornell and the Harvard Law School, she worked in the private practice of the law, and for over 20 years has pursued a distinguished public legal career in the State of Florida, the last 15 of those as chief prosecuting attorney for the 11th Judicial District of Florida, which includes Miami and surrounding Dade County.

She has really had an extraordinary record of achievement. She has been on the front line of the fight against crime and drugs, and has worked closely with police and Federal law enforcement agencies and the courts. She has managed an office of over 900 people and developed a number of innovative programs to deal with the crime problem and creative approaches for incarcerating and rehabilitating criminals.

She has been a pioneer in developing effective alternative strategies to fight crime, such as the special court to deter young drug offenders. She has been an aggressive prosecutor of sexual and child abuse cases. She has been reelected on five occasions in Dade County, with margins of victory that would be the envy of any candidate for public office. She clearly commands broad support in her community.

Mr. President, let me say, in closing, I am confident that Janet Reno will be an exemplary leader and an outstanding manager of the Department of Justice, and that she will bring a deep sense of integrity and high standards to that very important national Department—one of the original departments of our National Government.

Janet Reno is a fair, intelligent, and strong individual, with the broad experience and vision that are so critically needed at this time.

I again commend the President on his selection of Janet Reno to be the Attorney General of the United States.

I thank Chairman Biden and all the members of the Judiciary Committee for their prompt and unanimous approval of her nomination. I urge all of my colleagues to support this nomination. Our Nation will be much the better and stronger for it.

I look forward to an outstanding performance by Janet Reno as the next Attorney General of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield some time to the distinguished Senator from North Carolina.

Mr. HELMS. Three minutes ought to do it, if the Senator has that much time remaining.

Mr. HATCH. I do.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have been very much impressed with the nominee, Ms. Reno, even though I have yet to find many things about which she and I agree.

Let me ask the Senator from Utah, my good friend, Senator HATCH: This lady favors gun control; did she say that much?

Mr. HATCH. I believe that is correct.

Mr. HELMS. And she is against the death penalty—I think STROM THURMOND took note of that during the hearings—is that correct?

Mr. HATCH. She is against the death penalty. But she has been a very decent and honorable prosecutor who has enforced the death penalty better than 100 times in her career down there. So she has abided by the law, regardless of whether she disagreed with it or not.

Mr. HELMS. What percentage of her cases did the hearings disclose with reference to plea bargaining? Was it 97 percent?

Mr. HATCH. I cannot recall the actual percentage. I do not think it was that high.

Mr. HELMS. I think that is in the ballpark.

Mr. HATCH. It could very well be. Because they brought, I believe, over 100,000 cases last year alone, and it is logical that many of them would be plea bargains.

Mr. HELMS. She favors abortion. She is pro-choice, I will put it that way.

But I did like what she said when she was accused of something which I believe, and trust, was absurd in the nature of a rumor. She said something to the effect that she was an old maid. I have not heard that expression in a long time. And she lives with her mother, does she not?

Mr. HATCH. Her mother is deceased now. She lives in the family home.

Mr. HELMS. In any case, some of my friends have called in and said, "You must not vote for this lady." I said, "Why not?" And they said, "Well she is pro-abortion." I said, "Well, do you think President Clinton is going to send up a nominee who is opposed to abortion?"

I think this lady is absolutely honorable. I have three or four people in my State who went to school with her. They have called me, or written to me, and they have given her the highest recommendation with respect to her character.

Now, I say to the Senator from Utah, that counts with me. I can get along with people who disagree with me on issues, just so long as they have character. And I believe Ms. Reno is a lady of character.

Do you agree with that?

Mr. HATCH. I surely do. Every indication is that she is not only a person of character, but of high standards. I believe that her background, intelligence, ability, education, and her work effort have been those of a person of great character.

Mr. HELMS. Mr. President, I felt the need to ask these questions because, even as we speak, a lot of people are calling to say "you cannot vote for her."

Mr. Clinton won the election. We do not have but one President at a time. I do not like some of his nominees. But I am sure that, if I knew this lady personally, I would like her. And also, based on what I have been able to learn by reading transcripts and reading the news accounts and, I must say, talking to my friends, such as ORRIN HATCH, I am going to vote for her, and I am going to do it unhesitatingly, because I think she is a lady of character.

Mr. HATCH. I thank the distinguished Senator from North Carolina. It is characteristic of him to support good people, and this is a good person, and a person of great ability.

I believe she will make a real difference as Attorney General. I think she will set standards that will be long followed by others who may succeed her in the future.

Mr. HARKIN. Mr. President, I strongly support the nomination of Janet Reno as the next Attorney General of the United States. Ms. Reno's experience, qualifications, temperament, and forthright testimony before the Judiciary Committee convinces me that she has the potential to be a great Attorney General of the United States. As we all know, Ms. Reno will be the first female Attorney General of the United States, and I salute her in this historic appointment.

As Dade County State's attorney, she has developed a reputation for integrity and toughness. She has established herself as a fighter against drugs, as a proponent of victim's rights, and as a person committed to combatting child abuse. The people of Dade County have shown that Ms. Reno is held in the highest regard, by repeatedly electing her by lopsided margins.

However, her job will not be an easy one. Over the last 12 years, the Justice Department, which previously had a reputation for professionalism, has endured scandal and incompetence under previous Attorneys General, like Ed Meese. We need an Attorney General who can turn the department around, and put the justice back into the Justice Department. I am confident that Janet Reno is the person to do that. I congratulate the President for such an excellent choice to be our Attorney General.

Mr. THURMOND. Mr. President, I rise today in support of Ms. Janet Reno to be confirmed as the next Attorney General.

Since her nomination by the President, Ms. Reno has been the focus of a very thorough background check and definitive questioning during 2 days of hearings before the Judiciary Committee.

My support for Ms. Reno is based upon the examination of her record and her testimony before the committee. Ms. Reno proved to be an adept witness facing questions on myriad issues for which she will have jurisdiction.

I was pleased particularly with Ms. Reno's response to my questions on the need for effective habeas corpus reform. Ms. Reno said and I quote, "Senator, I could not agree with you more on that issue. * * * We sought the death penalty, we have gotten the death penalty, and to find those people still in prison without that penalty carried out after 10 * * * years makes a mockery of the justice system * * *." She went on to comment on frivolous appeals and said, "It makes no sense and is not in line with the idea that punishment, to be effective, must be fair, but swift * * *, to see a crime committed and then to see the punishment carried out 12 years later * * * does not send any message and I think it impedes the deterrent effect" of capital punishment. Mr. President, her remarks are encouraging that we may reach agreement on legislation in this area.

Additionally, Ms. Reno has assured the Judiciary Committee that she will not neglect the fight against violent crime—whether it is in the cities, in rural areas, or in the home.

Mr. President, I believe that Ms. Reno's background, intelligence, enthusiasm, understanding of the Nation's problems, and her commitment to vigorous but fair enforcement of the law will serve her well as Attorney General.

She has the confidence of the President, and I believe she is well qualified to serve as Attorney General.

Mr. SIMPSON. Mr. President, I rise in support of the confirmation of Janet Reno as U.S. Attorney General.

I am impressed by her spirit and by her humanity, a combination which should serve her well in the Attorney General's Office.

She has been a vigorous prosecutor, but she has also given much effort to education and rehabilitation, particularly of young offenders using a carrot-and-stick approach, probation with the threat of serious punishment, if the rehabilitation program is not followed to the letter.

She has promoted programs to ease first-time offenders, particularly drug offenders, back into the mainstream society by helping them get jobs.

While much of her efforts in Florida have been of the root cause approach to fighting crime, she has assured the committee that when more heinous offenses were involved, she has supported dealing harshly with those criminals.

Janet Reno's education, experience, and personality suit her well for the job.

I believe the issue of immigration control may have been raised by more members of the Judiciary Committee than any other single issue during the 2 days of hearings with Ms. Reno. She assured the committee that enforcing our immigration laws is a top priority with her. She assured us that she will be personally involved in seeking increased resources and staff for the Immigration and Naturalization Service.

As one of my colleagues told her, we will be watching carefully to see to it that her actions fulfill the promises we heard at the hearings.

I believe Janet Reno can be a fine Attorney General.

Mr. DOLE. Mr. President, I would like to take a few moments to express my support for the confirmation of Janet Reno, President Clinton's nominee for Attorney General.

Ms. Reno has certainly impressed me and my Senate colleagues with her poise, her intelligence, and her familiarity with a broad array of criminal justice and civil justice issues, particularly the issue of domestic violence. Perhaps most impressive is the practical law enforcement experience she has garnered during her 15 years of service as Dade County prosecutor. This experience will undoubtedly be an invaluable resource to her as she confronts one of the great problems of our time—the proliferation of violent crime.

Indeed, Mr. President, it is my hope that Ms. Reno will make combating crime her No. 1 priority.

Many people mistakenly believe that crime is a problem reserved to the large urban areas of our country. Although I wish this belief were true, it certainly does not reflect the recent experience of my own State of Kansas.

According to the Kansas Bureau of Investigations, violent crime jumped by 10.9 percent in Kansas in 1991, and rose again by 10.5 percent during the first 6 months of 1992. Much of this increase in violence can be directly attributed to the sudden emergence of gang activity. The most recent estimates, for example, suggest that there are now more than 3,100 serious gang members throughout Kansas. Last year, Wichita—with nearly 1,200 gang members roaming its streets—recorded 14 gang-related killings. Even in the Johnson County area, an affluent suburb of Kansas City, police have identified 16 different gangs with several hundred members.

One wonders why young men and women would choose to join these gangs and become foot soldiers in the drug trade, committing brutal acts of unspeakable violence. Poverty, a sense of hopelessness, a drug habit that bends the mind and inflames the passions—these are some of the reasons

often given to explain, if not to excuse, violent criminal behavior.

But, Mr. President, there are no excuses. In fact, this country cannot afford any more excuses. There is only the bitter reality that society has somehow failed to communicate to a segment of our youth the moral lesson that, "yes, there is indeed a difference between right and wrong, and that certain behavior is simply intolerable."

In my judgment, it is this failure to communicate a shared public morality, rather than poverty or other social conditions, that is the biggest factor behind the crime epidemic. As my colleague in the House of Representatives, JOHN LEWIS, once explained, "It's not poverty that causes crime. It's crime that causes poverty."

During her tenure as Attorney General, it is my hope that Ms. Reno will remember these important words.

Mr. President, I wish Janet Reno the very best as she becomes our Nation's top law enforcement officer. I will be closely watching her performance, and I look forward to working with her in the months and years ahead.

Mr. HATFIELD. Mr. President, I would like to add my voice to the many who have already expressed support for Ms. Reno as U.S. Attorney General. Janet Reno has demonstrated, through years of service and in her testimony before the Judiciary Committee, that she is highly dedicated to the pursuit of justice in America.

The academic and career record of Ms. Reno illustrates the impressive legal abilities that will be crucial to success as the Nation's top law enforcement officer. Friends of mine who have worked with her in Florida speak very highly of her, as do those in Washington who have had the chance to interview Ms. Reno. Her adept handling of questions by members of the Judiciary Committee led to an 18-to-0 vote yesterday to recommend confirmation.

Perhaps the most important point in favor of confirming Ms. Reno as Attorney General is that she has shown herself to be a tough and independent administrator who is not afraid to take new directions when necessary. I was encouraged by comments indicating some personal opposition on her part to the death penalty—for decades some of us have been raising questions about its merit. Ms. Reno appears ready to attack the causes of crime, while remaining tough on enforcement mechanisms that actually work. I wish her the best of luck in the enormous challenges that face her in the coming years.

Mr. KENNEDY. Mr. President, I join in strongly supporting the confirmation of Janet Reno as Attorney General, and I am confident that she will do an outstanding job as the Nation's top law enforcement officer.

As Attorney General, she faces many difficult challenges. Violent crime victimizes vast numbers of Americans each year, and leaves millions of others fearful in the streets and in their homes. Public confidence in the fairness of our legal system has fallen. Working families, the poor, women, and racial minorities believe that they cannot get a fair shake in our courts, that they do not yet stand equal before the law.

Janet Reno is uniquely qualified to meet these challenges. For 15 years she has served as State's attorney for Dade County, where she presided over an office with 240 assistant prosecutors and a $33 million budget. She brings more impressive crime-fighting credentials to the Department of Justice than any Attorney General in recent memory.

She has prosecuted violent street crime and white-collar fraud with equal determination. She has confronted the flood of illegal drugs in Miami with tough, effective policies. And she has worked closely with Federal prosecutors in the Southern District of Florida to bring corrupt public officials and international drug traffickers to justice.

She has sought stiff sentences for career criminals and established special units within her office to focus on child abuse and domestic violence. She has also been a forceful advocate for the rights of victims and witnesses.

Janet Reno has pioneered innovative programs, like the Miami drug court, to treat drug addicts so that they won't need to commit robberies or burglaries to support their habits. She has worked tirelessly to remove the conditions that breed criminal activity, like rundown public housing and a soaring high school dropout rate.

In a county that has extraordinary ethnic diversity, she has gained the full confidence of the entire community. Those skills will serve her well as Attorney General, where she will be responsible for protecting the civil rights of all Americans.

Janet Reno has felt the pain of discrimination firsthand. As a law student, she was denied a job at a Miami law firm because she was a woman; 14 years later, she was made a partner in that firm. She is fully committed to vigorous enforcement of our civil rights laws to secure equal opportunity for all Americans.

Unlike many who preceded her, Janet Reno brings to the Office of Attorney General a firsthand knowledge of both the challenges and the benefits of immigration. Based on her record and her testimony in her confirmation hearings, I am confident that she will enforce the immigration laws fairly and effectively. Whether it is protecting America against terrorism or helping persecuted refugees or fighting discrimination against immigrants, she will be an Attorney General who will be on the side of effective law enforcement and justice and fairness for all.

The Justice Department is also responsible for enforcing many important environmental laws. Ms. Reno brings to her office a lifelong respect for the environment and a deep commitment to protecting our natural heritage for future generations.

At every stage of her confirmation hearings, she demonstrated extraordinary intelligence, integrity, and candor. She has the experience and the potential to be an outstanding Attorney General, and an outstanding symbol of the best in American justice. I commend her on her nomination, and I know that all of us on the Judiciary Committee look forward to working with her in the years ahead.

Ms. MIKULSKI. Mr. President, I rise today to express my strong support for Janet Reno's nomination as the next Attorney General of the United States.

Ms. Reno is an excellent choice for this important position. Her record as the leader of the Dade County, FL State attorney's office for the last 15 years speaks for itself. The fact that she has been reelected to that post five times shows the faith and admiration which her community holds for her.

I am pleased that our next Attorney General will come to the job with hands-on experience in fighting crime. I am also pleased that Ms. Reno has an interest, not only in fighting crime, but in learning what causes it and preventing it.

Of course, Mr. President, I am also very happy that for the first time in American history, the Attorney General will be a woman. Being the first Democratic woman to win a seat in the Senate in her own right, I know what it is like to be the first.

But I am not voting for Janet Reno just because she is a woman.

Rather, I am voting to confirm Janet Reno as U.S. Attorney General because she has shown that she is qualified and ready to do the job.

I look forward to the confirmation of Ms. Reno as Attorney General, and I wish her the best as she takes on this important position.

Mr. LEAHY. Mr. President, I rise today in support of Janet Reno as the first woman Attorney General of the United States. Ms. Reno's dedication to public service, her accomplishments in law enforcement, and her long-standing proven commitment to justice make her an outstanding nominee.

During Ms. Reno's distinguished career, she has shown herself to be a talented, forceful, and versatile advocate. She is a prosecutor's prosecutor. Her knowledge of this art is not based on theory, but rather, on practice. Her hands-on approach to fighting crime and representing the people of Dade County has won her the deep respect of those she has served. We as a Nation will be fortunate to have her experience guiding the Justice Department.

Ms. Reno knows from experience how important the role of tough law en-

forcement is in fighting crime. I think all those present, for her confirmation hearing, witnessed her mettle and will attest to her strength of purpose. This is a person of unwavering purpose. And the "mean bads" as she calls them will not rest easy knowing she heads Federal law enforcement.

But aside from being a tough prosecutor in the traditional sense of the term, Ms. Reno has also proven herself to be an innovator who understands that ending this epidemic also requires addressing the broader issues that contribute to crime: Poverty; inadequate education and sparse economic opportunities. Her initiatives to reform the juvenile justice system and to establish a special court for drug offenders—combining punitive sanctions with rehabilitative measures—demonstrate her commitment to refocus the system toward prevention and rehabilitation. She understands the complexity of our crime problem, and how deep a commitment we need by government and all of society to improve the situation.

Her nomination comes at a crucial time for the Justice Department. Instead of enjoying its historic reputation as the champion of justice over the last 12 years, the Department became one of the most partisan bulwarks of the conservative political agenda. I was disheartened to see Attorneys General Meese, Thornburgh, and Barr engage the Justice Department in political confrontations with Congress and the courts, instead of concentrating on enforcing the law evenhandedly. The public rightly is concerned that the Department's integrity has been compromised by political ends. It has been a long time since we have had someone who can give the proper direction to Federal law enforcement. I believe Janet Reno is that person.

As Attorney General, Ms. Reno will head a professional corps of some of the most talented and dedicated attorneys and law enforcement officials in the country—men and women who take deep pride in representing their country in court and in furthering the cause of justice. She will need to reinvigorate this committed group with a new sense of morale and purpose. Ms. Reno has been described by both colleagues and adversaries as a person of unwavering integrity. From her fine record and her straightforward and thoughtful testimony these past 2 days, I am confident that she can draw on this integrity to make the Department of Justice a place where justice, not politics, is the first and only priority.

At its fundamental core, the guiding principle of our Republic is that it is ruled by laws—not by the wishes of particular men or women holding political power. Our society's legitimacy and justness stems from this core principle. It is the paramount duty of the judiciary to protect the rule of law, but it is the paramount duty of the Department of Justice to promote and pursue it, as well as to protect it. This is a weighty responsibilty, but one Ms. Reno is extemely well-suited to undertake. I look forward to working with this excellent nominee on the difficult but rewarding tasks that lie ahead.

Mr. HOLLINGS. Mr. President, I rise today in support of the nomination of Ms. Janet Reno for U.S. Attorney General. I am convinced that Janet Reno is the Attorney General that America has been waiting for. She is an exceptional woman. She is tough. She is talented. And she is experienced—both in civil and criminal law.

After a long wait, we finally have the kind of effective crimefighter that America deserves. Her 15 years as a tenacious prosecutor in Dade County have given her the grit and the experience necessary to do the job at Justice. I can testify myself, as a trial lawyer, that there's no better place to develop the advocacy skills she will need than the inside of a courtroom. Ms. Reno has been down in the trenches. She knows what it's like to work with the courts, what it takes to organize and prosecute a case, and what the rank-and-file law enforcement officer is up against on the streets. And believe me, that will be a breath of fresh air.

Mr. President, as the chief prosecutor for Dade County, Ms. Reno has done an outstanding job. She has been on the front lines of fighting every aspect of crime. Her innovative approach has not only attacked high-profile criminals but also has aggressively prosecuted deadbeat dads and cases of spousal and child abuse. In fact, she has established a children's center for prosecution of child sexual abuse cases, and created Florida's first domestic violence prosecution unit. Additionally, she has worked with local police to establish an innovative, special unit to better coordinate and prosecute career criminals.

Mr. President, Ms. Reno garners the utmost respect from colleagues for her intuitive understanding and far-reaching vision for the way to get our country on the road to eradicating crime at its source. She knows the importance of rehabilitation and education. I've always said that it's better to feed the child than to jail the adult. Ms. Reno, with her firsthand experience of seeing juveniles caught in the downward spiral of the destructive criminal underworld, knows that we have to educate and rehabilitate our young people in order to make them productive citizens.

Toward that end, she has used her office to revamp Florida's juvenile justice system. This is right in line with all my efforts as chairman of the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary to increase funding for juvenile rehabilitation and education programs across the country.

Let me just add in closing that I am delighted to be here in support of Janet Reno's nomination to be Attorney General. She is a law enforcement professional. Many of her predecessors were just high-level campaign operatives. In contrast, Ms. Reno brings real courtroom and law enforcement experience to the position. Her strong, sure-handed, capable leadership, her innovative and vibrant thinking and her extensive criminal experience is just the tonic the Justice Department needs. I urge my colleagues to support her nomination. I thank the Chair.

Mr. DECONCINI. Mr. President, I rise in strong support of the nomination of Janet Reno to be this country's next Attorney General. Ms. Reno is consummately qualified for the position of top law enforcement officer of the United States. In her statement to the Judiciary Committee, Ms. Reno referred to the inscription on the Department of Justice building which reads, "Justice in the Life and Conduct of the State is possible only as first it resides in the Heart and Souls of the citizens." Ms. Reno's life and her service to the people of Florida for the past 15 years, as a State attorney and chief prosecutor, are testimony that justice resides in her heart and soul. I am confident that as Attorney General, Janet Reno will bring justice to the life and conduct of our great United States and to the Department of Justice.

My colleagues and I on the Judiciary Committee were extremely impressed by Ms. Reno's profound understanding of the roots and extent of the crime which plaques our country, an understanding she gained from her vast experience on the local level in Florida. She is tough on career criminals, murderers, and drug traffickers through her support of vigorous penalties. Moreover, she has strongly advocated bold drug treatment programs, early intervention for juvenile offenders, and programs to combat violence in the home.

Ms. Reno is a tough-minded prosecutor. She made clear at the nomination hearings that she is not concerned about turf or credit. I spend a lot of time in the Senate managing turf battles—battles between Treasury, Justice, Border Patrol, DEA, and Customs, for example. Ms. Reno, however, is concerned about doing it the right way. I am confident from her past treatment of turf battles that Ms. Reno will, as she pledged, meet with Secretary Bentsen, and with all agencies involved to deal with this problem effectively.

I was also encouraged and pleased by Ms. Reno's willingness to review the number of cases, one of which is Inslaw, that have cast a shadow on the credibility of the Justice Department.

She also agreed that improving the operations of the Immigration and Naturalization Service should be a high priority in her Department. The Border

Patrol, which functions under INS, is miserably underfunded and mismanaged, both in terms of manpower and resources.

Finally, I am confident Ms. Reno will bring a new excellence and diversity to the Department of Justice by increasing the number of women and minorities in the Senior Executive Service and other management positions.

Mr. President, unfortunately, scurrilous attacks against nominees are all too common distasteful occurrences in the confirmation process. Many unfounded accusations were made against Ms. Reno's character. The FBI and the Judiciary Committee independently investigated these allegations and found them to be without merit. Moreover, there were several individuals who wished to come and testify in opposition to Ms. Reno. As is the practice in these circumstances, these individuals were invited to submit their testimony in writing to be included as part of the public record. To date, they have declined this offer.

In Ms. Reno's nearly 30 years of private and public practice, she has developed a professional reputation for unquestionable and impeccable integrity. She is an extraordinary compassionate and intelligent woman who will be a dedicated attorney for the people. I strongly support her confirmation and look forward to her tenure at the Department of Justice.

Mr. PELL. Mr. President, I am thoroughly pleased today to vote to confirm the nomination of Janet Reno of Florida to be the Attorney General for the United States. As the first woman to be selected to fill this position, Ms. Reno brings to the Justice Department an impressive record of integrity, commitment, and legal prowess. Since being nominated nearly 1 month ago, I have been impressed with her conduct, demeanor, and forthrightness. For too long our Nation's top law enforcement agency has been compromised by doubts about political motives, personal integrity, and abuses of power. I believe that Ms. Reno will erase such misgivings and restore to the Justice Department the very highest level of prestige and civic mindedness.

I am particularly pleased that Ms. Reno has indicated that she will take a comprehensive, centrist approach in carrying out the Department of Justice's responsibilities. She indicates that this means such things as not only the rigorous enforcement of our drug laws but also the successful implementation of drug treatment programs. She speaks of tough punishment of criminals that also ensures fairness and encourages rehabilitation where possible. She points out the need for combating the out-of-control gun violence plaguing our streets while promising to preserve basic rights under the second amendment. This approach, which seeks solutions rather than political advantage, is desperately needed in today's society where the pursuit of divisive policies in recent years has paralyzed the administration of justice. I am encouraged that Ms. Reno is committed not only to finding answers but including everyone in the process.

The work ahead at the Justice Department for Ms. Reno is by no means a small task. Nevertheless, I am confident that she will tackle the problems facing her with vigor and that the country will be well-served by her service. I wish her the best of luck and look forward to working with her over the coming years.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have received a number of calls and personal contacts from Senators regarding the timing of this vote. There are a number of conflicts in the schedules of Senators and in an effort to balance the conflicting requests, and following consultation with the distinguished Republican leader, I am momentarily going too ask unanimous consent that the vote occur at 2:20 instead of the 2:15 p.m. originally scheduled. That would give an additional 5 minutes for Senators who are on their way here, and not greatly inconvenience Senators who are to leave immediately upon voting.

I believe it is the best solution to accommodate the various requests.

I therefore ask unanimous consent that the vote now scheduled for 2:15 occur at 2:20 p.m., and that the additional 5 minutes be under my control.

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

Mr. MITCHELL. Mr. President, the Senate is about to cast a historic vote. For the first time in American history, a woman will become Attorney General of the United States. I commend President Clinton for his appointment of Janet Reno. I commend the Judiciary Committee for the prompt, yet thorough, consideration of the nominee. And I especially commend Janet Reno for her handling of the confirmation hearing and the nomination to date.

Mr. President, I have never met Janet Reno. I know her only by reputation and all that I have read about her. But I must say that I am very greatly impressed. I myself served as a prosecutor at the State level. I served as the chief Federal prosecutor for the district of Maine, as U.S. attorney for that position, and for a brief period of time as a U.S. district judge. I devoted much of my adult life to matters in the judicial system, and especially in the criminal justice system. I cannot think of a person, male or female, in this country better qualified to serve as Attorney General than Janet Reno.

Her nomination is historic, not because she is a female, but because she is a superbly qualified person to serve in the position for which she has been nominated. She has vast experience as a prosecutor managing one of the largest prosecutor's offices in the country with, I understand, nearly 900 persons under her supervision. And, with a distinguished record and detailed knowledge of the law and the criminal justice system, I think she will do well.

I am also most impressed about the following: One of the greatest powers in a democratic society is the power of prosecution. It is, in fact, the greatest power for which there is little or no accountability. Members of Congress are regularly described as being powerful. We would question that. But we are, at least, accountable. Our votes are recorded and all of our deliberations are in public. We must go before the voters on a regular basis.

A very great power—and I am aware of it because I possessed that power personally—is the power of prosecution. It must be exercised with a balance of vigor and restraint. It requires the best judgment and the best reasoning and restraint in action of which our society is capable.

That is often not the case. The power of prosecution is greatly abused in a democratic society. I am confident, based on what I know about Janet Reno, she will conduct herself properly in that regard. And finally, and most especially, she will keep politics out of law enforcement.

Some months ago I met with then-President-elect Clinton and we talked about this position. My advice was the best thing he could do for himself, for the country, was to nominate a person who would make judicial decisions based on judicial factors; who would make law enforcement decisions based on law enforcement factors and keep politics out of law enforcement.

The Attorney General's position ought not to be a political position. It ought to be occupied by a person who understands the difference and who will make decisions based on what is in the best interests of the country and on that basis alone. I think where Presidents have gotten in trouble in the past is where they have appointed people who have not followed that standard, who thought they were doing Presidents a favor by basing decisions on, or considering, political factors.

The best thing we can do is to have an Attorney General who will keep politics out of law enforcement, and I am confident that Janet Reno will do that.

So I commend the President very strongly for this superb nomination, and I look forward to an overwhelming—if not unanimous—vote by the Senate in just a few minutes, to confirm Janet Reno as the Attorney General of the United States.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, is there any time remaining?

The PRESIDING OFFICER. There remain 4 minutes and 30 seconds.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

Mr. President, just let me say once again how much I appreciate the cooperation of my Republican colleagues, and in particular Senator HATCH. I want everyone to realize that under the standing rulings of the committee, Senator HATCH could have, or any Republican could have insisted that this vote not take place for another 10 days. It would be appropriate, fully within the rules, and would be the way we usually do business. But I can tell you that Senator HATCH not only acceded to the request, he initiated it, along with his Republican colleagues on the committee, and moved this nomination process along because of the need for an Attorney General. I want to just personally thank him. The Senator from Utah is always cooperative. We have been good personal friends. But he is also a pleasure to work with politically in that he acted in this case, as did his Republican colleagues, to fill a vacuum that needs to be filled right now in the Justice Department.

I think I might say, Mr. President, we are doing more than filling a vacuum. We are putting in place a woman of incredible talent, energy, and integrity who, I am convinced, has the potential to be one of the truly fine Attorneys General this Nation has had. Her commitment is unyielding, her integrity is beyond question. I think we are going to have as nonpolitical a Justice Department as possible. This woman is going to do what she thinks is right. This women has a vast amount of experience in the one area we have to deal with more than any other in this country, the violence that plagues this Nation.

Again I would like to pay my respects to my ranking member, Senator HATCH from Utah, and also congratulate, again, a truly fine public servant, a woman willing to come and serve in a very difficult job, and congratulate her now—Janet Reno.

I would also like to thank my staff, which has followed down every single solitary lead, accusation, rumor, question—all of which came up to be baseless. But they worked; this looks like it was awfully easy. One of my colleagues said this was an easy one. It all just worked smoothly. But the majority staff, the investigators' staff spent hours and hours and hours pursuing every single solitary question that was raised. I thank them both. I thank the minority staff as well as the majority staff and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to thank my colleague for his kind remarks. I just want to express my respect for President Clinton for having made this choice, and congratulate him for an excellent choice for Attorney General of the United States.

Janet Reno is a good person. Her family are good people. I believe she will handle this job with aplomb, with dignity, and with the fairness it deserves. I believe politics will be a very secondary factor, if any factor at all, other than her work as representative of the President of the United States. Naturally, she has to give him good advice.

So, Mr. President, I congratulate President Clinton for his choice here. I look forward to all of us voting on this matter. I hope every Senator in the U.S. Senate will vote affirmatively, to show our support for this fine woman.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The question is, Will the Senate advise and consent to the nomination of Janet Reno, of Florida, to be Attorney General of the United States? The yeas and nays having previously been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 29 Ex.]

YEAS—98

Akaka	Faircloth	McConnell
Baucus	Feingold	Metzenbaum
Bennett	Feinstein	Mikulski
Biden	Ford	Mitchell
Bingaman	Glenn	Moseley-Braun
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boxer	Gramm	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Inouye	Riegle
Chafee	Jeffords	Robb
Coats	Johnston	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kempthorne	Sarbanes
Conrad	Kennedy	Sasser
Coverdell	Kerrey	Shelby
Craig	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Smith
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Dorgan	Mack	Wellstone
Durenberger	Mathews	Wofford
Exon	McCain	

NOT VOTING—2

Hatfield Krueger

So the nomination was confirmed.

[Applause.]

[Disturbance in the visitors' galleries.]

Mr. MITCHELL. Mr. President, may we have order?

Mr. BYRD. May we have order in the Senate galleries? And the galleries will be in order, Mr. President.

The PRESIDING OFFICER. I ask the galleries to be in order.

Under the previous order, the motion to reconsider the previous vote is laid on the table.

And the President will be notified of the confirmation of the nominee.

Mr. MACK. Mr. President, I am pleased with the unanimous confirmation of Ms. Janet Reno as the first female U.S. Attorney General. I am particularly delighted in light of the fact that she is a fellow Floridian and a highly qualified individual. I believe Janet will serve our country well and I look forward to working with her to help solve some of society's most entrenched crime problems.

As I relayed to the Senate Judiciary Committee, my initial knowledge of Janet was limited. However, subsequent to her nomination I received numerous phone calls and letters in her behalf and I was impressed with what I heard. These calls and letters came from a number of individuals, Republicans and Democrats alike, whose opinions I greatly respect. Many of them have worked with Janet directly and others know her by reputation. The overwhelming opinion is that Janet is a talented prosecutor who is tough on crime yet fair in the administration of justice.

As a person, she is marked by a sense of human decency which she extends to every aspect of her professional life. By her ability to get things done and inspire those around her to reach their full potential, Janet epitomizes what a public servant ought to be. She has established a strong personal and professional reputation for integrity and requires herself and those with whom she works to abide by the strictest code of ethics.

I am told by those most familiar with Janet that she "does a lot more than prosecute." In Florida, she has been a champion in criminalizing domestic violence, cracking down on deadbeat parents, and being a spokesperson for crime prevention.

Janet has also shown exceptional willingness to find and adopt innovative approaches to the criminal justice system. It is crucial the Justice Department develop innovative programs that tackle some of society's most entrenched social problems.

As I expressed at Janet's nomination hearing, I believe it is critical we have an individual as the country's chief law enforcement official who is particu-

larly sensitive to the immigration issues facing our country and particularly Florida. As prosecutor of Dade County, Janet has a keen understanding of the financial strains imposed upon our State and local communities by Washington's immigration policies and enforcement procedures. In her role as Attorney General, she can be sensitive to the impact immigration issues will continue to have on Florida taxpayers. I look forward to working with her to make certain that Florida receives its fair share of funds from Washington to deal with the immigration crisis.

As U.S. Attorney General, Ms. Reno will bring her qualifications and her innovative approaches in the local and State justice system to the Federal level. I am pleased she has been confirmed and I look forward to working with her for Florida and the Nation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that I may be able to speak——

The PRESIDING OFFICER. The galleries will be in order.

The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business.

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

TRIBUTE TO LESLIE FINN

Mr. DODD. Mr. President, it is with a great degree of sadness that I rise to tell my colleagues of the passing of a——

Mr. McCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The galleries will be in order.

Mr. DODD. Mr. President, it is with great sadness that I rise to inform my colleagues of the Senate of the passing of a beloved friend of mine and someone who worked with me for 12 years as my office manager, Leslie Finn. She arrived in the Senate in 1967, working for Senator Tydings of Maryland, then Senator Adlai Stevenson, and for 8 years with Edmund Muskie of Maine, both in his capacity as Senator from that State and during the 10-month tenure that he served as Secretary of State. She joined my staff in January 1981 and was with me until she passed away this past Monday.

Leslie Finn discovered that she had cancer in December, and in 12 weeks she lost her life.

Mr. President, there was a memorial service for Leslie Finn this morning, attended by many people from the Senate, particularly staff and support staff from throughout this institution. I was very fortunate, Mr. President, that she dedicated so many of her days to our office. She did a remarkable job, and was one of the most highly competent, efficient staff members of the U.S. Senate.

There are many offices throughout this body that benefited from her knowledge and her expertise. She was one of the most highly respected members of the Senate staff, and she dedicated a quarter of a century of her life to this institution.

Regretfully, she died at the tragic young age of 47, but her mark on this institution will be remembered for many, many years to come. I was fortunate that she gave me so many years of her life in making my office a very successful one. She was in the office at 6:30 or 7 o'clock every morning, organizing.

But beyond what she did for this Senator—and I said this morning, I am a far better Member of this institution because Leslie Finn was a part of my staff—Leslie Finn was a unique individual. Not only had she served for four U.S. Senators, as I mentioned before, and served them well during their tenure, she went beyond the role of just being a good staff member for an individual office. Leslie Finn was dedicated to this institution. She improved the quality of life in the Senate because she cared about the mechanics of this institution. She wanted to see it be a more coherent, more cohesive, more effective institution.

Outside this Chamber, Mr. President, there are five portraits hanging in the reception room. Those portraits reflect the decision by a committee some 30 or 35 years ago that determined who, up to that point, were the most effective Members of the U.S. Senate in our history. Then-Senator John F. Kennedy chaired that Commission. Those Senators were Senator Taft, Senator Calhoun, Senator Clay, Senator Webster, and Senator La Follette.

Mr. President, there is no such facility, that I know of, where members of the Senate staff are so recognized for their contributions. They are rarely, if ever, mentioned in the press. They never get an opportunity to give a speech on the Senate floor. But I know each and every one of our colleagues here deeply appreciates the work that these Senate staffs do.

Were there such a hall of fame, were there such a room or a place where Senate staff could be recognized, I have no doubt in my mind, Mr. President, that Leslie Finn's name would be in that hall of fame for her contribution to the culture of the U.S. Senate. She was responsible for modernizing many of the accounts practices that we all enjoy today. She organized the Democratic office managers group in the Senate, and was its first Chair. She helped improve what many of us may enjoy and may think of as innocuous. Yet this body now has a furniture policy thanks to her perseverance. She knew virtually every office in the Senate. She made her rounds regularly and saw to it that the people who helped make this facility work did so effectively.

So we are all saddened by her loss. She will really be missed. And I think the presence this morning at that memorial service by so many members of the staff of the Senate from both sides of the aisle who respected her and had great admiration for her ability and contributions reflect the remarks that I have made here this afternoon.

Last, Mr. President, I want to say that aside from her tremendous contribution to me and to Senator Muskie, Senator Tydings, Senator Stevenson, and to the Senate as a whole, her husband, Terry; her two sons, Timothy and Kevin; and her sisters, brother, and mother also lost someone who was a very caring and very devoted person.

This was a great friend of mine. I was with her on Saturday, just a few hours before she passed away. Leslie was not given to expressing emotions outwardly very easily. But she died with great dignity, great strength, and great courage, just as she lived her life.

While the public may never know the name of Leslie Finn, there are those in this body who will thoroughly miss her effective presence in this Chamber, in this body; her contribution to the Senate; her contribution to the offices of this institution. I want to express my deep sorrow to her family and to her fellow workers at her loss and her passing.

Mr. SARBANES. Mr. President, I want to underscore the comments of Senator DODD with respect to Leslie Finn, who was one of the extraordinary members of the Senate staff that had a career of great service to this institution. She will be buried tomorrow in Baltimore. Her death is a tragic loss not only to her family and those of us who were her friends, but also to this institution. It is people like Leslie Finn that enable the Senate to meet high standards. I want to associate myself with the very moving and meaningful remarks made by my distinguished colleague from Connecticut.

Mr. President, I ask unanimous consent to proceed for an additional 10 minutes as if in morning business.

Mr. McCAIN. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would be curious to know how much more we are going to do in morning business. I have an amendment. I know the distinguished manager of the bill is interested in moving forward with the bill. If we could get some sense of that, because I also have other things on my schedule.

Mr. FORD. Mr. President, will the Senator yield to me?

Mr. McCAIN. I yield.

Mr. FORD. I reserve the right to object. What is the legislative business before the Senate?

The PRESIDING OFFICER. The business before the Senate is S. 460.

Mr. FORD. Under the circumstances——

Mr. McCAIN. I have an amendment. I will not object.

Mr. SARBANES. Mr. President, perhaps we should lay down the amendment, and then if the Senator will yield us the 10 minutes, his amendment would be pending.

Mr. McCAIN. I do not see how that helps me any.

Mr. FORD. It does not. How much time does the Senator from Maryland need?

Mr. SARBANES. I asked for 10 minutes. I can cut it to 8 minutes, and split it with the Senator from Virginia.

Mr. WARNER. Mr. President, if the Senator from Maryland would be kind enough to put my statement in as if given, I would be happy not to use the time.

Mr. FORD. I have no objection to the Senator doing that. How much time does the Senator from Massachusetts need?

Mr. KENNEDY. Reserving the right to object, is the Senator from Arizona proposing a time agreement on his amendment?

Mr. McCAIN. I was seeking to know when I could bring up my amendment. I would like to know the schedule. If there is going to be further morning business, I will go about my business until it is appropriate to bring up this amendment. That was my only question.

Mr. FORD. Mr. President, the Senators know we do not have to go into morning business. They can get up and speak, as long as there is no time agreement. I was trying to maybe limit the amount of time the speakers would have, so we can get to the amendment of the Senator from Arizona as soon as possible. The Senator from Maryland needs 8 minutes; the Senator from Massachusetts, 4 minutes. Does anybody else need any time?

Mr. President, I ask unanimous consent that after the Senator from Maryland has spoken for 8 minutes, and the Senator from Massachusetts, 4 minutes, we return to the consideration of S. 460 and the recognition of the distinguished Senator from Arizona.

Mr. JEFFORDS. Reserving the right to object, I will have an amendment that will take about 1 minute, and I wonder if I could sneak it in ahead of the Senator from Arizona.

Mr. FORD. Mr. President, I amend the unanimous-consent agreement to the extent that we recognize the Senator from Vermont, then followed by the Senator from Arizona.

Mr. McCONNELL. Reserving the right to object, we are in the process of taking a look on this side at the amendment of the Senator from Vermont. If the Senator from Vermont will withhold his unanimous-consent request for a few moments until we see his amendment, as I have just received it 5 minutes ago.

Mr. FORD. If we leave the unanimous-consent agreement the way it is, he can be recognized. He does not necessarily have to agree with it. Then we can go ahead in an orderly fashion.

Mr. JEFFORDS. If it is not agreeable to the minority, I will not offer it and the time would pass immediately to the Senator from Arizona.

The PRESIDING OFFICER. Is there objection to yielding 8 minutes to the Senator from Maryland, 4 minutes to the Senator from Massachusetts, and then returning to S. 460?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair.

(The remarks of Mr. SARBANES, Ms. MIKULSKI, Mr. WARNER, and Mr. ROBB pertaining to the introduction of S. 567 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Massachusetts.

VIOLENT ANTIABORTION PROTESTS

Mr. KENNEDY. Mr. President, I condemn the extreme act of violence committed yesterday in Pensacola, FL. The brutal murder of Dr. David Gunn makes clear that tough new measures are needed to deal with antiabortion terrorists and their abhorrent tactics.

Peaceful protests by those opposing abortion on moral or religious grounds are protected by the Constitution. Everyone is entitled to have and express a view. But no zealot or anyone else is justified in stalking physicians, harassing women, blockading clinics, or resorting to any form of violence, let alone murder.

Clinic violence is nothing new. With increasing frequency, antiabortion extremists around the country have gone beyond peaceful expressions of their views. They have engaged in bombings and arson, vandalized and destroyed clinics, and committed other vigilante acts that have no place in our free society.

Every woman in America has a constitutional right to decide for herself whether to terminate her pregnancy, and that fundamental right deserves the full protection of Federal, State, and local law.

Now, because the government has failed to provide that protection, an innocent physician has lost his life. His death is a national tragedy, and the act of violence that took his life is a national outrage.

This particular killer will be brought to justice. We must send an unequivocal message that his sort of violence will not be tolerated in any community in America.

Physicians who perform legal abortions for American women must be reassured that they can practice their profession freely, without fear of violence or sudden violent death.

The Federal Government can and must do more to help. Occasionally, the number and conduct of antiabortion demonstrators mean that local law enforcement authorities are overwhelmed and unable to bring the situation under control. In these situations, the Attorney General has the power to send in Federal law enforcement assistance, and she should do so.

In addition, we need a new Federal law to prohibit clinic blockades and violence and to provide adequate Federal remedies for the victims of this conduct. I intend to introduce such legislation soon, and I will do everything within my power to see that it is swiftly enacted into law.

The PRESIDING OFFICER. The Senator from Kentucky.

VITIATION OF TIME

Mr. FORD. Mr. President, I have been advised by the distinguished Senator from Vermont [Mr. JEFFORDS] that he would not ask for his time and I ask unanimous consent that part be vitiated.

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

NATIONAL VOTER REGISTRATION ACT OF 1993

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 460) to establish national voter registration procedures for Federal elections, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 79

(Purpose: To ensure that individuals applying for agency based registration are not coerced by such agencies)

Mr. McCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself and Mr. McCONNELL, proposes an amendment numbered 79.

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

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

At the end of Section 7 of the Act, add:

(d) RESTRICTIONS ON AGENCY REGISTRATION.—No agency designated under this Act shall register any individual who receives direct financial aid from the agency.

(1) If an agency described in paragraph (d) is requested by an individual to register that person to vote, the agency must refer that individual to an agency designated in this section and from which the individual does not receive direct financial aid.

(2) EXCEPTION TO PARAGRAPH (d).—If the individual noted in paragraph (d) has or claims to have a disability as defined by the Americans With Disabilities Act of 1990 (P.L. 101-332), that individual must be

(i) referred to another agency designated in this section and from which the individual does not receive direct financial aid, that is both convenient and accessible under the standards of the Americans With Disabilities Act of 1990 (P.L. 101-336), or

(ii) if no such agency designated under (d)(2)(i) exists, any agency designated by this Act may register such individual.

Mr. McCAIN. Mr. President, before I describe my amendment, I would like to extend my appreciation and my sympathy to my two colleagues from Kentucky who have been working on this bill now for 6 or 7 days. It probably seems like more to them, and I realize that they would like to see this legislation brought to some kind of conclusion. I join them in that desire.

I do think it is important for our colleagues to understand, as the junior Senator from Kentucky has pointed out, this is a very, very significant piece of legislation and one that deserves our scrutiny. As time has passed this bill has gotten the scrutiny of some important people, not only in my State but around the country. I intend to discuss that a little bit as I discuss this amendment.

Specifically, Mr. President, this amendment restricts agencies from registering individuals who receive direct financial aid from that agency. The amendment takes into account the needs of the disabled and makes exceptions for disabled Americans. The amendment mandates that no agency may register any individual who receives direct financial aid from that agency. Should an individual seek to register at an agency that is banned from registering that person, the individual must be referred to another place or agency that can register that person. I repeat. The amendment mandates referral so that everyone will have the opportunity to register.

Lastly, the amendment allows anyone who is disabled to register at any agency regardless of whether he or she receives financial aid from that agency or not.

This provision was added to the amendment to ensure that our Nation's disabled citizens are not excluded from registering due to physical disabilities.

Mr. President, those who are most vulnerable in our society must be protected from coercion. This amendment does exactly that.

S. 460, as currently drafted, allows for agency based voter registration. To be specific, the bill mandates that all unemployment offices, public assistance offices, and vocational rehabilitation offices seek to register to assist in registering their clients.

Although this outreach program is noble in concept, it is fatally flawed as currently drafted. I believe this bill will subject the poorest and least educated in our society to undue and unfair coercion, and I believe that we must ensure that this kind of coercion is not allowed under this bill. Before we act, I suggest we examine what the States have implemented in this area.

Mr. President, my own State of Arizona offers motor-voter registration. Yet, under this bill, Arizona would be severely penalized. It is a miscarriage of justice that a State such as mine, which is one of the leaders in the Nation in this area, will be severely hurt under this bill.

Under this legislation, Maricopa County, just one county in the State of Arizona, would be forced to expend an additional $900,000 under this legislation.

At the same time we are imposing this Federal mandate, my State has a registration rate of just over 68 percent of eligible citizens. We have motor-voter, we have mail-in registration, and we have limited agency based registration with safety precautions built in.

Mr. FORD. Will the distinguished Senator yield at this point for a question, since we are not on a time agreement?

Mr. McCAIN. I am happy to yield.

Mr. FORD. Could the Senator give us the breakdown of the figures for $900,000 for one county?

Mr. McCAIN. I would be more than happy to do so. I thank my friend from Kentucky for that question.

I would like to best answer that and describe that to him by reading a column from the March 8 Mesa Tribune, written by Ms. Helen Purcell, who is the county recorder in Maricopa County and who happens to be a Republican, and Mr. Jim Shumway, who is the deputy secretary of state of my State, who happens to be a member of the Democratic Party. So I would just like to read it and hope that it will answer the questions that my friend from Kentucky might have.

Once again Arizona is on the brink of being penalized for meeting federal standards ahead of time.

House Resolution 2, a piece of federal legislation on voter registration, is about to be slam-dunked through Congress and appears to have gained the favor of the president.

The basic theory of this "new legislation" has been around for years. Provide a positive atmosphere for voter registration: registration while applying for your driver's license; registration forms available at all agencies of state and local government; registration by mail through self-registration.

Arizona already meets each of these qualifications!

You can register to vote while applying for your driver's license; pick up a voter registration form at any motor vehicle location, as well as most state and local agencies.

There are more than 1,000 locations (including all post offices) in Maricopa County where forms are available. Grocery stores, banks, libraries and town halls are also part of the growing list. Arizonans already have the right of self-registration by mail.

The new version of H.R. 2 throws the current system out the door and mandates that each person applying for a driver's license be automatically registered to vote. Applicants must formally decline in order not to be registered.

While this sounds like a panacea for registration, this bill specifically prohibits government from asking the applicant to fill out a voter registration form. All information must be contained in the driver's license document. This means, at best, that the entire driver's license forms and procedures must be reworked.

Currently a voter registers and the original copy of the form is filed in the County Recorder's/Election Office. Under the new provisions of H.R. 2, the election department would receive a second- or third-generation carbon copy of the driver's license/voter registration form.

It will prove interesting trying to satisfy the U.S. Justice Department mandate of bilingual translation of all voter-related information, especially the drivers license form.

Currently each voter registration form in both Maricopa County and Pima County—

And for the record, Pima County is the second largest county in Arizona, approximately 80-some percent of the entire population of my State live in these two counties—

is scanned onto a computer disk. In this high-tech world it makes sense that we can accomplish this exchange of data electronically to update the computer files.

However, because of this legislation, we will be re-recording data that is already placed in the system. This duplication of efforts will be cost-prohibitive to both the Driver's License Division of state government, the Recorder's Offices for each of Arizona's counties and ultimately to you, the taxpayer!

The basis for voter participation in Arizona has always been registration and voting in the precinct where the voter resides. It seems inherently unfair for voters to return to their "old" voting place and cast their ballot for candidates that do not represent them at their current location. H.R. 2 allows this to happen on a continuing basis.

In a time when government is making an honest effort to react to a mandate from the public for more fiscally responsible management, it is unfortunate that we are being led down the primrose path in the name of "easier accessibility."

The cost—

I am getting to the point that my friend from Kentucky asked about.

The cost for Maricopa County's participation is estimated to exceed $900,000 additional tax payer dollars annually. This cost will no doubt continue and escalate every year. This does not include State Motor Vehicle Department costs.

Arizona and any other state that already provides for easy access to voter registration deserves an exemption to this legislation.

Don't be fooled by quick-fix solutions. In order to protect our precious right to vote, election laws must continue to provide security to help insure the absence of fraud. This "convenient, ease-at-all-costs" approach is not the answer.

I hope that answers the question of my friend from Kentucky about how the county recorder in Maricopa County and the assistant secretary of state of the State of Arizona feel about this issue.

Mr. FORD. Mr. President, in answer to my distinguished friend, this is a purely misunderstood article about this piece of legislation. I do not have any balance figures for the $900,000.

Most of the States have a maximum cost of 18 cents per registered voter. I am not sure that adds up to $900,000. But there is nothing in here that says this costs so much, that costs so much. It is basically a figure.

But, nevertheless, since the Senator has gone through all this, it seems to me, since you are probably the leading State, as you say, as it relates to motor-voter, I do not understand why it is such a big problem to make the changes that you are outlining there in that article, not the ones I read in this piece of legislation.

The Senator can have his own interpretation of it, or they can, too, but my interpretation of the article I just listened to him read is somehow or another the bill and the article do not coincide. I regret that I cannot agree to it, but I understand.

Mr. McCAIN. I thank my friend from Kentucky. I would repeat perhaps the more relevant part. They are saying, "Because of this legislation, we will be recording data that is already placed in the system. This duplication of effort will be cost prohibitive to both the driver's licenses division of the State government, the recorder's office for each of Arizona's counties, and ultimately to the taxpayer."

Also I have a letter concerning this legislation from the head of the Department of Economic Security in Arizona who says:

> The Arizona Department of Economic Security management staff have reviewed the Motor Voter bill, S. 250, for implications on the Department. We are extremely concerned about the mandates to register every assistance applicant to vote, or to obtain every refusal in writing, without adequate funding.
>
> Additional client services without additional funding would place an added strain on an already tight budget. Additionally, we are concerned with potential Federal litigation.

That is from the Arizona Department of Economic Security.

Perhaps there is some misunderstanding in my State about the implications of this, but, obviously, as a representative of the State of Arizona, I am required to go to the people who are responsible for carrying out the laws we pass. And, frankly, I did not solicit that—I wish I had—I did not solicit that article that they wrote in the Mesa Tribune.

If I might continue my remarks, Mr. President.

We must ensure that this bill does not punish States such as mine that have already acted progressively on this issue.

I would also like to point out that Mr. David Broder, on February 14, 1993, in a Washington Post column entitled "Inflated Expectations" wrote:

> But, unfortunately, they have done something else that is altogether too common in this capital. They have failed to put their money where their mouth is. The bill imposes a welter of new duties on the states, and it offers them little help in paying for them.
>
> When the nation's governors were in town two weeks ago, President Clinton listened sympathetically to their pleas for a halt to Washington's habit of dumping unfounded mandates on the States. But, so far, Clinton has urged Congress to send him the motor-voter bill and hasn't said "boo" about it being another unfunded mandate.

Mr. Broder goes on to say:

> The only benefit the bill provides is about $5 million of postal subsidies for the verification forms states may use to check the validity of registrations. The estimates of what it will cost the states range from $25 million a year up to 10 times that amount. But no one disputes that computerization and manpower costs are going to put an additional burden on strained state budgets and Congress, with its usual cavalier attitude, is going to make the states pay.

Mr. President, David Broder, I think, is right on the mark with his comments. In Arizona we know he is completely accurate on the subject of new costs associated with the bill. I would like to mention again the March 8 issue, Helen Purcell, who wrote the article in the Maricopa paper, is the reporter with Jim Shumway, the Maricopa elections director that I mentioned before who wrote the editorial that I just stated.

Again, I think there are very few people who would disagree with the fact that before we pass legislation, we should listen to the people we represent, including those who will be required to carry out and implement these laws.

I would like to say to my friend from Kentucky, if there are inaccuracies in their judgment of the legislation, I would be more than glad to get that to them, if he feels they need to be reeducated as to the impact of this bill on their ability to carry out their duties and on the taxpayers of Arizona.

Mr. President, the Department of Justice wrote:

> The Department's experience demonstrates that public officials sometimes use their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party. S. 250 would increase substantially the opportunities for such intimidation and coercion of the public.

In 1991, the St. Louis Post Dispatch reported on an ongoing investigation into allegations that public assistance employees were routinely registering public assistance applicants——

Mr. FORD. Mr. President, my good friend from Arizona is going to fuss at me, I suspect, but we are not on S. 250 and it is not this Justice Department. We are on S. 460 in the year 1993. It is a different bill.

Mr. McCAIN. S. 460. I apologize to my friend from Kentucky, who I am sure I yielded to, if he would show me how the previous Justice Department was incorrect in their view of S. 460? In fact, I see no change in S. 460 as opposed to S. 250 that would remove or allay the concerns the then-Justice Department displayed.

Mr. FORD. Mr. President, I say to my good friend, I have heard lawyers saying, "You tell me which way you want to go and we will make a good case."

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Arizona has the floor.

Mr. McCAIN. Again, I enjoyed yielding to the Senator from Kentucky.

If I could ask him at the appropriate time if he would tell me how S. 460 is different from S. 250 which would lead the Justice Department to a different conclusion?

> The Department's experience demonstrates public officials sometimes use their powers to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party.

In 1991, the St. Louis Post Dispatch reported on an ongoing investigation into allegations that public assistance employees were routinely registering public assistance applicants, suggesting who they should vote for, and taking them to the polls.

Although I applaud the protections against coercion in the bill, in my view they are simply not enough. Public assistance recipients are most in need of the government and thus the most vulnerable for exploitation. It is foolish, in my view, to think that such individuals who depend on this social agency for their livelihood will risk all—or they may risk all—to report an instance of coercion.

Even worse, would a person seeking public assistance risk all to turn down an application to register to vote? Even if such a real threat does not exist, the perception is certainly real. We are not speaking of overt coercion. The bill sufficiently addresses that issue. We are talking of subtle manipulation and abuse.

Will not a welfare mother feel extreme pressure to register to vote if the person in charge of her money makes such a suggestion? S. 460 wisely states that an individual may refuse to register with no repercussions. But will that individual truly realize that he or she possesses that right? Further, will that individual realize that he or she can take the civil servant to court? Reality, I think, tells us that the answer is no. The welfare mother will sign right up against her will, because she believes it will help her situation.

This kind of coercion is as reprehensible as overt arm-twisting. This body simply cannot prohibit one kind of co-

ercion while allowing the other to exist unchecked. As long as registration is linked to public assistance benefits, coercion will exist. My amendment would solve this dilemma. The amendment forbids any agency from registering an individual who receives direct financial aid from that agency.

In order not to disenfranchise that individual or create a disparate impact on any group in our society, this amendment then mandates that the agency refer the individual seeking to register to vote to another agency that is eligible to register the individual. This amendment does not ban agency-based registration. The amendment does, however, in my view, protect individual rights.

Let me emphasize that point. If this amendment is adopted, limited coercion-free agency-based registration will still be allowed while at the same time protecting individual rights. If an individual truly wants to register to vote, that individual will gladly walk down the hall or around the block to register in a coercion-free environment.

Further, this amendment protects the rights of those who are physically disabled. Disabled Americans seeking to register to vote will be referred to the most convenient acceptable agency that is eligible to register the individual to vote. Most important for the disabled, if no agency is both convenient and acceptable, then any agency, including the one that may give direct financial assistance to the individual, may register the person to vote.

Mr. President, I have talked to many disability advocacy groups in Arizona, who overwhelmingly support my efforts. Sue Webb, the executive director of the Arizona Bridge to Independent Living, one of the largest disability advocacy and resource groups in my State, wrote to me regarding this same amendment last year. She said:

> I am pleased with this amendment as I believe it resolves an important issue of coercion that apparently exists on occasion when individual voters are registered at social service agencies who provide some means of support for these individuals.

The amendment facilitates, in my view, easy, coercion-free registration. The amendment does not link a person's financial stability to voter registration. The amendment reestablishes the American tradition that participation in the political system is voluntary. And certainly we have an obligation to protect those in our society who might be vulnerable. This amendment does exactly that.

The amendment is pro-individual rights, pro-privacy rights, anti-coercion, pro-voter registration, and pro-participation in our democratic system of government.

I want to point out again that I come from a State that has extremely liberal motor-voter State-passed legislation. In fact, in my view, I believe from a pure philosophical standpoint that the States should be making these decisions and not the Federal Government.

I believe, as Mr. Broder does, that "they have failed to put their money where their mouth is," and "the bill imposes a welter of new duties on the States and it offers them little help in paying for them."

One of the biggest problems in my State and, I believe, in every State in America today is the size of their budgets. They are now required to make very difficult decisions on education, on mental health, on other very important programs that are lacking in funding. This is certainly true in the State that I represent. Instead, in the view of those who are responsible for carrying out this amendment, that they will be required to spend in excess of $900,000 of their additional taxpayers' money when they already have a system in our State that has over 68 percent voter registration.

I think from a philosophical standpoint, as Mr. Broder says, we have again unfortunately placed an unwanted and unneeded burden on the States and at the same time, in the view of the elected officials in my State who are required to carry out these mandates, both Republican and Democrat, that this is an unnecessary Federal mandate that is being laid on them.

This amendment is an attempt to make sure that there is no coercion of any individual in the voting process. I believe sincerely that the overwhelming majority of people who work in these various agencies are honest, decent, straightforward individuals who would not exercise coercion. All we are saying is that history shows us, as the St. Louis Post Dispatch described, that from time to time, unfortunately, there are people who will coerce others into exercising their most precious right in a fashion that they otherwise would not.

So, Mr. President, I hope that we will see this amendment for what it is, an attempt to eliminate any coercion of, frankly, our poorest and least educated voters. At the same time we can encourage their participation. This is possible, in my view, because there is ample opportunity in other agencies throughout my State and other places where they would be able to register to vote.

Mr. President, I would ask for the yeas and nays, but I do not see enough people on the floor as yet. So I will withhold that. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I agree with many things my friend from Arizona said. I agree with him that David Broder is a good writer. I agree with him that, in my opinion, David Broder is among the best. But generally you have to read all of David Broder's article in order to understand the total picture of what he says. You can pick out two or three paragraphs or a paragraph of David Broder's and make your point.

Let me make a couple of other points that David Broder said: "By building on that State experience"—motor-voter experience; left-hand column about four paragraphs down in case the Senator is interested—"its sponsors have done something that is altogether too rare in Washington. They allowed the design to be field tested before taking it national." That is one positive step.

Also to add to the part that the Senator has read:

> The prospect of all these newcomers make Republicans nervous—even though many of the new registrants are expected to be young people. In two of the last three Presidential elections, most young people voted Republican. Some of the Republican rhetoric condemning the bill has been even more exaggerated than Democratic descriptions of its benefits.

So I think the Senator ought to read all of David Broder's article and not just a paragraph or two. We discussed this in the beginning of the bill. It was submitted for the RECORD at that time.

The Senator from Arizona read a letter from, I guess, a year or so ago from the Justice Department. The case that the Senator is referring to in the Justice Department letter, as stated by the Bush administration Justice Department, took place in a State that did not have agency-based registration, so it did not even apply to motor-voter. It did not even apply to this bill. It did not have the safeguards that S. 460 has to protect against intimidation or coercion.

So I get overwhelmed with statements and articles and you have to go back and ferret out the facts. The facts are the case they stated in that particular letter was in a State that did not have agency-based registration, did not have the safeguards that S. 460 has in it to protect against intimidation or coercion.

Mr. President, this amendment would undermine the purpose of the bill. It treats people differently, not equally. It points out a little bit like grade school where those who get free meals go in one line and those who can pay 40 cents for a meal in another line and those who can pay the full value get in another line. So we set them all out. These cannot pay so they go over there, and everybody looks at them. These can pay a little bit, they go in this line and they pay a little bit, so everybody looks at them.

Here we are saying, because you do not own a car, because you are poor, because you are here on the unemployment line, we do not trust you; we do not trust you; we do not trust employees; we do not trust people. That is

what this amendment says, you do not trust people.

Trust is the important part of this legislation. Do we not trust a citizen? How many are here today who would do it properly? What is the percentage who would coerce an individual, who would intimidate them? Somehow or another, Mr. President, we have to start having trust and faith in the people of this country instead of trying to say we want to prevent them from doing anything wrong. This bill says if they do, we will take care of them under the Federal statutes. Let us start trusting people. We do not trust the individuals. We do not trust the administration of the program.

This bill has protections against intimidation, it has protections against undue pressure.

So, Mr. President, we talk about the money. Somehow or another I do not understand why some States have to pay so much money, and they are already in motor-voter, have one of the best ones. I am not sure you have agency based in Arizona. You do in Government offices and libraries, but I am not sure you have agency based in Arizona. You could have. But Texas appropriated no additional money for motor-voter. A whole State did this without one dime of appropriations. Already this year approximately 50,000 additional people are on the rolls; 50,000 people will be eligible to vote in the next Federal election without costing the State a dime.

And talk about computers, where in this piece of legislation does it say you have to have computers? I have never heard of it. We do not mandate computers. We keep going over and over and over. Pretty soon we are going to have a broken record. If we just put it on tape we can listen to it: Fraud, cost, whatever it might be, and you turn around and point out that it does not do that; we have to have computers. You do not have to have computers. This bill does not mandate that.

So I appreciate the support of the disabled Americans, and under this amendment they are still directed, by the way, to another agency unless it is not accessible. So you are saying to disabled Americans that they have to go to another agency unless it is not accessible. That is the way I read it. So really I do not believe the disabled can endorse this amendment. At least I would have some reservations about it. The disabled under this amendment are still directed to another agency unless it is not accessible.

I think when you begin to look by it—it has a good sound to it. It has a good image to it. Unless somebody looks behind the imagery of it, they will probably buy on. But when you look behind it, there is no way for you to buy on to this legislation.

And so, Mr. President, I hope at some point here, maybe in the next 15 or 20 minutes, we can have a vote but that we would see this amendment for what it is, that it damages this legislation considerably, and I do not think it carries out the intent of the Senator who proposed it. So I hope that at some point the judgment of the Senate would be in opposition to it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Kentucky, and I do think he makes a good point about the Broder article. I ask unanimous consent that it be made a part of the RECORD in its entirety.

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

[From the Washington Post, Feb. 14, 1993]

INFLATED EXPECTATIONS

(By David S. Broder)

It is rare that Congress passes a good bill that also sends a bad message. The "motor-voter" bill that whipped through the House early this month and is slated for floor action soon in the Senate is such legislation.

For the most part, it is well-designed to accomplish the worthy purpose of increasing access to the voting booth for millions of Americans. But it is also an example of the kind of underfunded, overhyped legislation that gives Congress and Washington a bad name.

The purpose of the legislation is to make voting registration easier by combining it with the procedure for obtaining or renewing your driver's license. The bill would also require states to offer postcard registration and mandate outreach to unregistered voters through many of the government offices people deal with every day.

It was approved by Congress but vetoed by President Bush, for not very compelling reasons, last year. An identical bill cleared the House by a healthy 259-160 margin on Feb. 4, and the Senate Rules Committee has slated a meeting for Thursday to send it on for floor debate.

Motor-voter has been tried in a small number of states, with results that so far fail to confirm the fears of widespread fraud that Bush and other Republicans assert is its crippling defect. By building on that state experience, its sponsors have done something that is altogether too rare in Washington: They allowed the design to be field-tested before taking it national.

But, unfortunately, they have done something else that is altogether too common in this capital. They have failed to put their money where their mouth is. The bill imposes a welter of new duties on the states, and it offers them little help in paying for them.

When the nation's governors were in town two weeks ago, President Clinton listened sympathetically to their pleas for a halt to Washington's habit of dumping unfunded mandates on the states. But so far, Clinton has urged Congress to send him the motor-voter bill and hasn't said "boo" about it being another unfunded mandate.

The only benefit the bill provides is about $5 million of postal subsidies for the verification forms states may use to check the validity of registrations. The estimates of what it will cost the states range from $25 million a year up to 10 times that amount. But no one disputes that computerization and manpower costs are going to put an additional burden on strained state budgets. And Congress, with its usual cavalier attitude, is going to make the states pay.

The other characteristic thing Congress has done is to hype what the bill can be expected to accomplish. During the House debate, speaker after speaker talked as if the measure were a sure cure for the embarrassing gap in voter turnout between the United States and most other democracies.

Those who have studied election laws know better. As the House committee report recommending the bill says, "Expanding the rolls of eligible citizens who are registered is no guarantee that the total number of voters will increase, but it is one positive action Congress can take to give the greatest number of people an opportunity to participate."

Curtis Gans, the head of the Committee for the Study of the American Electorate, who is the authority on these matters, agrees. He points out that Colorado had a 13 percent increase in registration when it introduced motor-voter after the 1984 election, but only a one percent increase in turnout in 1988.

Turnout increased almost everywhere between 1988 and 1992, but the statistics are, in Gans' word, "ambivalent" on whether motor-voter states did better than those without that registration system.

Still, there's little doubt a great many more people will be on the registration rolls after this becomes law. Currently, only about 65 percent of the voting-age population is registered to vote. But that will rise to more than 90 percent if this measure succeeds in registering every auto license holder. And additional hundreds of thousands will be enrolled by mail or by other government agencies.

The prospect of all these newcomers makes Republicans nervous—even though many of the new registrants are expected to be young people. In two of the last three presidential elections, most young people voted Republican. Some of the Republican rhetoric condemning the bill has been even more exaggerated than Democratic descriptions of its benefits. They have warned of a "monstrous bureaucracy" exposing "our electoral system to terrible abuses."

In the Senate, diehard Republicans are threatening a filibuster to delay or block the measure. Rather than go down in flames, Republicans could more usefully try to improve the bill's verification procedures, which are vaguer now than in earlier versions. They could also reasonably insist that a wide variety of state offices, serving many constituencies, be required to offer voter registration forms—not just the welfare and unemployment benefits offices mandated in the Democratic bill.

And, most important of all, the Republicans could pressure the Democrats to guarantee that the federal government will pick up its share of the costs of this bill instead of loading them onto the states.

Mr. McCAIN. Mr. President, just to clear it up, the amendment says it would have to be both convenient and accessible. I agree with him. If the word was only accessible, it would probably not be acceptable to Americans with disabilities. But the fact is the amendment says both convenient and accessible.

By the way, it was put in those words at the request of many Americans who have disabilities and with whom we discussed this issue.

I ask my friend from Kentucky, when we are talking about places to register,

I wonder, using his line of debate and rationalization, why we would not include then the IRS as a place to register, congressional or senatorial offices, perhaps military recruitment offices. I wonder if they would be appropriate as well, as opposed to just offices that dispense welfare or other benefits to the citizens of our State or our country.

I see he is occupied in conversation. Perhaps we can get back to that question later.

But I think clearly, in the sense of fairness, it would dictate that military recruitment offices and IRS offices would be convenient places to register for many Americans. Unfortunately, many Americans are forced to visit IRS offices, and I wonder again why these offices are not included in this bill as well. Many fine Americans visit military recruitment offices. They are agencies of the Government. I wonder why concerned Americans can not register there. I wonder why people could not register at my office with my staff. Lots of people come to my office.

I would hope my friend from Kentucky would respond to that.

Mr. President, I would like, in a sense of fairness to my colleague from Kentucky, to point out that Mr. Broder in his article does say that there are many good things about this legislation. He is not totally opposed to it in this article. In fact, he makes an argument concerning increased voter turnout. That has been exactly the case in my State—65 percent voter registration in the last election and 68 percent is predicted in the next election.

He does say, however, at the end of the article, "And, most important of all, the Republicans could pressure the Democrats to guarantee that the Federal Government will pick up its share of the costs of this bill instead of loading them onto the States."

I hope that my friend, the junior Senator from Kentucky, might have an amendment that would call for the Federal Government not to lay these additional costs onto the States and local governments which, as we all know, already are required by Federal mandate to do too much.

Mr. President, I see other Members on the floor. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I thank the Chair.

I will not take too much longer on this. I am not talking about coercion on the part of the individuals who are registering to vote. I am talking about the possibility of coercion by those who are registering voters. I am concerned about it. I think past history indicates that it has happened.

I am not afraid, as Mr. Broder alleges, that there will be an increase in voter turnout amongst younger people. In fact, I won my election in 1992 in a very liberal motor voter State with a cushion of some 28 percent of the vote.

So that is not what concerns me. That is not in any way how this amendment or my remarks should be construed. I am wholeheartedly in favor of expanding voter participation. I am in favor of most every possible program including one which, by the way, began in my State called Kids Vote where schoolchildren from second grade through high school have been involved in our voter participation programs coordinated by volunteers. It has contributed enormously not only to the awareness of grownups, those over 18 and voting, but also the school children. I am hoping to see that program expand nationwide because it has not only increased voter participation, which is one criteria, but it also has increased another, far more important criteria and that is informing the voters about the issues and candidates they will decide on.

Mr. President, I hope we can get this amendment passed. I think it is an important one.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. The thought that the Senator from Arizona has in proposing this amendment is not in any way preposterous.

Let me suggest to my friend from Arizona I had a person sitting in my office just yesterday who talked—this was a person who had moved to Kentucky, to a county that was overwhelmingly of one party in my State. She was laughing about what she went through to get registered in the county clerk's office of that county. She said, why, it was made perfectly apparent to me that in this county we only register—and the person cited the party. In Kentucky we register by party.

Now, it was about as close to intimidation as you can imagine. And that was a situation where the registrant was not going into the office seeking anything in return other than to get registered. But what the Senator from Arizona has done is to point out the possibility of someone applying for public assistance, for example, assuming that there is a quid pro quo—in other words, the assumption being that if I do not register and register the way the person dispensing the public money wants me to register, I may not get my check.

The Senator from Arizona is stating here something that is a very real possibility. I do not think the authors of this bill really seriously want to put public assistance applicants in the position they could well be put in in the absence of the adoption of the amendment of the Senator from Arizona.

The concept of motor-voter, as we all know, is noble, but the bill does have some flaws. It is not perfect. Senator MCCAIN's amendment attempts to correct I think one of the major flaws involving agency-based voter registration. The McCain amendment will restrict an agency from registering individuals who receive direct financial aid from that agency. The amendment also takes into account the needs of the disabled and makes exceptions for disabled Americans.

Now, the point I want to make at the risk of being redundant, Mr. President, is that the suggestion of a quid pro quo is not at all farfetched. I simply cite an example in my State yesterday of a citizen who went into an office, a local government office, to register.

Now, that particular citizen was not asking for anything in return. They did not want a public assistance check. They were not trying to get unemployment benefits. They were simply trying to get registered. And yet there was a suggestion, a strong suggestion, on the part of the registrant, that person accepting the filled-out registration form, that if you wanted to participate in politics in that particular county, by golly, you should sign up for a given party.

So this is not farfetched. And if you added into the equation that that Kentuckian may well have been there seeking some Government assistance, some benefit from the Government, I think it gives the registering party in that particular situation enormous power over the citizen who is coming into that agency for the primary purpose of receiving some public assistance in one form or another and then this other issue is added into the mix. It is an atmosphere which, it seems to me, cries out for abuse.

Mr. MCCAIN. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. Yes.

Mr. MCCAIN. Will the Senator respond to the letter from the elections director from the largest county in Arizona concerning the costs of this on the State and the voters?

They estimated that in Maricopa County alone, there will be an additional $900,000 taxpayer costs. And we already have a very effective motor-voter law that people of my State are entirely satisfied with, and have not sought to change. We have over 65 percent of voter registration.

The people who have written this column are responsible for carrying out these mandates and they are highly disturbed—one is in the Republican Party; the other is in the Democratic Party—highly disturbed about this additional mandate laid on them, and echoed by Mr. Broder in his column.

Will the Senator respond to that, how we can go back to our constituents and explain to them how we have agreed to additional moneys they will have to spend to comply with something which should basically be their

own right to decide—if you believe in the constitutional right of the States to make their own decisions in these areas?

Mr. McCONNELL. The Senator posed that question to the senior Senator from Kentucky. As I recall the answer of the senior Senator from Kentucky, he started talking about Texas and cited that Texas has apparently been able to go to something like motor-voter and incurred no cost. That is terrific. If that is the case, then any State in America can go to motor-voter today, if they want to, in the absence of this Federal unfunded mandate. Maybe some of them can enact it at no cost. But in Arizona, in Maricopa County, for example, obviously they believe it will cost them $900,000 to comply with this unfunded Federal mandate.

The arrogance of your making Maricopa County pick up the tab, particularly when, as the Senator from Arizona has pointed out, Arizona has a very progressive election law on the books now—you already have motor-voter; is that correct? You have already mail registration. You have high turnout in Arizona. You have, as far as I know, not the kind of history of fraud that we have in my State, for example, election day fraud. What are you being punished for? You have not done anything wrong. We have to send one county a bill for $900,000.

I do not think it is an answer to the question of my friend from Arizona to start citing Texas.

Mr. McCAIN. May I ask my friend from Kentucky, will he yield for another question?

Mr. McCONNELL. Yes.

Mr. McCAIN. Have we considered an amendment to this legislation which would require the Federal Government to pay any additional costs that are incurred by the States in the implementation of this legislation?

Mr. McCONNELL. Absolutely. That amendment will be offered during the course of this debate. Unfortunately, as the Senator from Arizona may recall, we offered that amendment last year. It was not passed. But we have a President now—I quoted from him earlier in this debate—we have a new President, who used to be Governor, who said last year and throughout his 12 years as Governor of Arkansas, that these Federal mandates were outrageous.

And the response to that we get from the proponents of this legislation is, well, it will not cost much. Well, my answer to that is if it is not going to cost much, why do we not pay for it?

Mr. McCAIN. In continuation, I question my friend from Kentucky, does he contemplate an amendment that would require that any additional expenses incurred by the States—especially any State which already has a liberal motor-voter law which has accounted for an increase in voter registration—that any additional costs would be assumed by the Federal Government and not laid on the State and local governments?

Mr. McCONNELL. Such an amendment will be offered. It is the sincere hope of this Senator that it will be adopted.

Let me quote from my friend from Arizona what the President of the United States said June 7, 1990, not too far back.

> States don't have the luxury of operating a budget deficit. Every mandated dollar that we spend is a real dollar that has to be taken from another program. As Governors, we have had to make very difficult choices in a wide array of health and human service initiatives. We have found ourselves cutting back on important educational initiatives, closing county hospitals, unable to fund increases in cash assistance levels, and slashing a variety of important State programs that provide health and support services to our low-income citizens.

That is Gov. Bill Clinton, June 7, 1990, decrying unfunded Federal mandates. Here we are once again. It is no answer when the proponents of this legislation cite Texas or some study saying it is not going to cost much. If it is not going to cost much, it seems to me it is even a stronger argument for our funding it at this level if we are going to make everybody do it.

Mr. President, the Senator from Arizona has offered an excellent amendment. It is a reasonable amendment. I gather that there is a propensity on the part of the other side that they mindlessly vote down every amendment that is offered. But the Senator is dealing with a very real problem here. A person comes in to apply for public assistance; their principal purpose for entering that government office is to apply for public assistance. Yet, while they are there, the person offering the public assistance brings up the issue of voter registration. I think the potential for abuse is obvious.

Mr. President, I hope that there will be some on the other side who will conclude this is a very thoughtful amendment, not designed to gut the bill, but designed to improve the bill.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I hope my colleague from Kentucky, the junior Senator from Kentucky, is not suggesting that to vote against the proposal automatically puts you in the mindless category if we happen to be in disagreement.

Let me first of all respond to Senator McCAIN's amendment by just making it clear for the RECORD that the Disabled American Veterans, the United Cerebral Palsy Association, and the Disabled and Able To Vote oppose this amendment. I think the Senators ought to understand that.

Let me, second of all, simply deal with the substance of this amendment. No agency designated under this act shall register any individual who receives direct financial aid from that agency.

What we are talking about here is, in addition to motor-voter, there are those Americans, many of them low-income, who do not own a car, do not drive, and do not benefit from motor-voter.

It so happens that one of the ways that we can reach out and make sure that people are able to register to vote regardless of their income bracket is by making sure that our agencies do it, and they do it in a scrupulously nonpartisan manner. We have been doing this in Minnesota since 1987.

This whole issue of fraud, there simply is no evidence for it. It is based upon the assumption, No. 1, that public employees in our States—whether it be Kentucky or Minnesota, whether it be Arizona—are not capable of providing voter registration assistance to people in a professional, nonpartisan way. Given the fact there is no evidence for that, I can only sharply question that assumption and say that it is a bit insulting to those public employees.

Second, let me point out to all Senators who are going to vote on this amendment that there is no evidence that in those States that have done agency-based registration, it has not worked well. In fact, it is another way of reaching out, making sure without economic bias that Americans are able to register to vote, including low- and moderate-income people.

Let me also point out that the biggest fraud of all would be once again to insist, as my colleague seems to insist, that we throw up obstacles in the way of citizens being able to register to vote. That is really what this amendment is all about. It has an enormous bias against low-income people, or against people that would not benefit from motor-voter but do find themselves in contact with our public agencies.

There is no reason for us to support such an amendment. It goes against the very grain of what we do in a democracy, which is to make sure that people are able to participate in the process.

So I think this amendment really takes us in the wrong direction. I think it severely undercuts what Senators have already voted for. Quite frankly, I do not think it is based upon any evidence of the way it works. I come from a State with agency-based registration. It has worked extremely well.

So I certainly hope that when we come to a vote on this, either a vote to table or a vote up or down, that Senators will vote against the McCain amendment.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

I remind my colleagues that this does not change in any way the aspect of the bill which states that voter registration agencies designated may include State or local government offices such as public libraries, public schools, and offices of city and county clerks, including marriage license bureaus, fishing and hunting license bureaus, government revenue offices, and offices not described in paragraph 2(B) that provide services to persons with disabilities.

So there is a very large number of offices that are still available for registration. The only aspect of the bill this amendment changes is that it alters the provisions of the bill that deal with those offices which directly dispense some kind of financial benefit to a recipient.

This is a very narrowly crafted amendment. Again, if a person is an American with a disability, if it is not convenient for that person to go to another office, or that office is inaccessible, then, of course, they will be able to be allowed to register to vote at any agency.

So I think it is important to recognize how narrowly focused this amendment is.

I would like to stand here and say that all elections in the history of our country have been fair, without any corruption or coercion exerted, but unfortunately, as we all know, that is not the case. That is why we have certain safeguards and methods of checking voter participation. That is why we have secret ballots. That is why we have certain documentation that must be provided. What I am seeking to do here is certainly not to disenfranchise anyone but, on the contrary, to make sure that everybody has the opportunity to register, but that opportunity must be without coercion.

I want to again mention that this amendment mandates that no agency may register any individual who received direct financial aid; but should an individual seek to register at an agency which is banned from registering that person, the individual must be referred to another place or agency that can register the person.

We also know that most State agencies are clustered together. This is not always the case. But in almost every community in America, one agency is very near the other. So in most cases—not all—this amendment would entail a person going down the hall, or even in many cases, next door to register.

So I do not believe this puts a significant burden on anybody. I think it is also a fact—a sad one, but a fact—that those who are the least educated in our society, historically speaking, are those who are most subject to the kind of coercion that we are trying to prevent here. As I mentioned, last year, the Justice Department did say that their experience demonstrates that public officials sometimes use their power to dispense or withold benefits in order to pressure citizens into voting a particular way or registering for a particular party. That is the only aspect of the problem.

I point out to my friend from Minnesota, in one of the few counties in America where there is a preponderance of Republicans, I am just as concerned that there might be abuses in the offices dominated by Republican bureaucrats, as I am of any other persuasion. As I also mention, in 1991, the St. Louis Dispatch reported an ongoing investigation into allegations that public assistance employees were routinely registering public assistance applicants and were, in their words, suggesting whom they should vote for and even taking them to the polls. That is the kind of thing we have to guard against.

I hope that there will be a true appreciation of the extent of this amendment, which is very narrowly focused.

I say to my friend from Minnesota, my colleague from Texas, Senator GRAMM, is on his way over here. He would like to speak on this amendment. Unless the Senator would like to respond again, I will suggest the absence of a quorum.

Mr. WELLSTONE. First of all, I would like to respond.

Mr. McCAIN. I yield to the Senator from Minnesota.

Mr. WELLSTONE. The case the Senator talks about of coercion took place where, in what State?

Mr. McCAIN. St. Louis, MO.

Mr. WELLSTONE. Do they have a system of agency-based registration?

Mr. McCAIN. This particular case, as I understand it, is a case where people who were beneficiaries of welfare, when they came to receive their assistance, they were told whom to vote for and were given transportation to the polls. So in this case, it was not even a case of registering to vote. It just happened to be showing up to receive their benefits. They were then coerced into voting for the individuals that the public officials sought them to. They were even transported to the polls.

So I think that the opportunity for this kind of coercion would then be even dramatically increased if that were indeed the place they registered to vote. I am sure that the Senator may disagree with that conclusion, that logic.

Mr. WELLSTONE. Well, Mr. President, let me just point out that the problem with that example is that things can be confused by Senators listening and trying to decide how to vote.

No. 1, this was not agency-based registration we are talking about. So it does not quite apply. It had nothing to do with registration. It had to do with telling people to go out to vote. I think the example is a little bit off.

If the Senator from Arizona wants to argue that, by virtue of this example, he thinks other abuses can take place, that is fine. But it is no direct evidence whatsoever.

Let me go back to my essential point, that in States that have agency-based registration, like Minnesota, we simply do not see this taking place. No. 2, I want to point out again for Senators that it is not by accident that the Disabled American Veterans, United Cerebral Palsy Association, and the Disabled and Able To Vote, oppose this amendment, because even if you have language that says, yes, you can go to the place and register there, if you are not inconvenienced, there is burden of proof on people with disabilities that should not exist.

My third point is that, once again, if you want to talk about the problem of fraud, the biggest fraud of all is that if you want to say that certain public agencies are there, that people can come to those agencies, and they can register to vote, but not the low-income, because they happen to be receiving some assistance, unemployment or welfare; there is an enormous economic bias to this.

Once again, whether it be disabled or low-and moderate-income Americans, or the very philosophy of this legislation, which is, as many editorials have pointed out, making sure people are able to register and vote and participate in the political process, I think the Senator has presented no evidence to the contrary, and I think this amendment should and will be voted down.

Let me, Mr. President, while I have the floor, just list these for the RECORD. This is a partial list of organizations opposing this: The Disabled American Veterans; Paralyzed Veterans of America; American Council of the Blind; United Cerebral Palsy Association; National Association of Developmental Disability Councils; National Council on Independent Living; Association for the Severely Handicapped; Affiliated Leadership League of and for the Blind of America; and the Disabled and Able to Vote.

Mr. President, I think the list of those organizations alone tells a rather powerful story.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, throughout the 1992 campaign, our new President is purported to have had, on the wall of his campaign office, a sign that said: "The Economy Stupid," the basic point being that they were emphasizing that people were concerned about the economy above all else.

I ask my colleagues, Why are we here talking about a bill called motor-

voter? What does this have to do with anything that is of immediate relevance to the American people?

Mr. President, let me answer the question that I have posed. Traditionally, voter registration has been something that has been left up to the States. We are here debating this bill for one, and only one, reason, and that is our colleagues on the left side of this Chamber believe that this bill will help them in the election process.

Our dear colleague from Arizona has offered an amendment that affects several sections of the bill. I want to just deal with one section. If you look at this bill and you listen to how it is being lobbied, it sounds great. Why not have it so that everybody who gets a driver's license is registered to vote?

I got on the little trolley downstairs, the other day, with a very sweet lady who obviously did not know who I was, and she had on a button that said "motor-voter." I said to her, "What is it about this bill that you are for?" She said, "Well, what I am for in this bill is that it makes the social welfare agencies of Government register people to vote. It forces them to provide registration forms, to help people fill them out, to deliver them to the registrar's office."

Mr. President, do you not think it is strange in a bill that we call motor-voter that much of the bill has nothing to do with motor-voter? Do you not think it is strange that in a bill that, if you listen to the outside world, if you listen to this lady, if you read editorials endorsing it, the basic idea is that we are registering to vote those people who get driver's licenses, and yet, when you pick up the bill, so much of it has to do with other things?

I want to focus in on one of those things. Why is it in this bill, that we force every State agency that provides public assistance, unemployment compensation, and related services in an absolute mandate to provide for voter registration, to fill out forms for people, to carry them over to the registrar's office, and to get these people registered, and yet we do not make the tax office register them? I wonder why that is. What is special about people who get public assistance, people who draw unemployment compensation and related services? Why does this bill want to force local governments to register those people to vote and yet this bill does not have voter registration mandated for the tax office?

Mr. President, I do not think that you have to have a Ph.D. in political science or to have done indepth studies on political behavior to find that one of our great two political parties is the party of bigger Government. In essence, one of our two great political parties is the party of the people that are riding in the wagon, getting benefits from Government, and the other party is the party of the people who do the work and pay the taxes and pull the wagons.

So I ask the question again and, of course, I am going to answer it again. Why does this bill force State agencies that provide public assistance, unemployment compensation, and related services, to register people to vote and yet does not require the tax office to do it?

I answer the question, Mr. President, by saying these are people who, as obviously our dear colleagues on the left believe, with some justification, are going to vote for them. On the other hand, there are many over here who believe that the people who are going to the tax office are likely to vote for us.

So what is the objective here? The objective here is to have a mandate to impose costs on local government, to force them to register people to vote who are drawing public assistance and unemployment compensation and related services.

Mr. President, there is only one objective in trying to do that, and that is to try to change the political system. As this sweet lady told me, we might be able to get 25 million people, who are not now voting, to vote.

Mr. President, I would like everybody who works, to vote, but I am not forcing on the local government the mandate that they force people who do the work and pay the taxes and pull the wagon, to vote. I think people ought to have a right to register to vote, or not register to vote, as they choose. I think people ought to have a right to decide whether they want to cast their vote for me, or against me, or for my dear colleagues, or against them. But I do not think we ought to be in the business of, first, forcing States to set up a system of voter registration that we force upon them, rather than a system that States choose, and, second, I do not believe that it makes any sense to be forcing the public assistance office and the welfare office to be registering people to vote and not forcing the tax office to do it. Quite frankly, I do not think we ought to be forcing any such office to do it, and I think this is a bad bill.

I think the whole objective of this bill—and, quite frankly, I believe the motor-voter stuff is meant to tilt the political system a little; I think that it probably at least is viewed by our colleagues on the left side as being to their advantage. I am not sure that is the case. I think it is an open question. But, quite frankly, I think that is the red herring. Motor-voter is a red herring. I believe that you could get cloture and probably pass a real motor-voter bill. I do not believe you can get cloture to pass a bill that says make the welfare office register people to vote, but do not have the tax office register people to vote.

The reason I do not think you can get cloture on that is because you have to have 60 votes to get cloture. There are only 57 Democrats, and I think anybody that reads this provision, and reads the report that goes with this provision, can see very clearly that the objective here is partisan. The objective here is to force local government, at its expense, every time someone comes in to get a welfare check, to give them this voter registration form, and basically, as I am sure will happen all over the country where you have local Democrats who are running these offices, people are going to come in and ask for Government services and it is possible they will hear, "Well, now to get these Government services you know we are into the voter registration business here, and we need you to fill out this form to register to vote, and what we are going to do is, we are going to make that form and then you can fill out the form to get your welfare."

Mr. President, I do not understand why we should be doing this. I do not think it is the objective of the U.S. Senate to, in perpetuity, keep Democrats in power. I do not think we ought to be trying to tilt the political system in favor of voting by people who go to the welfare office and against voting by people who go to the tax office.

Mr. McCAIN. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I am happy to yield.

Mr. McCAIN. I believe that the Senator represents a State that perhaps has a history of there sometimes being electoral abuse. I read with great interest a book about the late President Lyndon Johnson and some electioneering that took place. This was well documented by Mr. Caro in his book about Lyndon Johnson called "Path to Power."

I wonder if perhaps the Senator from Texas could maybe describe some of the unfortunate incidents that might have taken place that perhaps distorted the electoral process and how this legislation might perhaps lead to the same kind of an abuse?

Mr. GRAMM. If my dear colleague from Arizona would forgive me, I am not eager to air the dirty laundry of the long, and not too distinguished electoral history, of some of the counties in my State, but it is said in some counties that people will continue and, in fact in some cases intensify, their political involvement once they are dead.

In fact, once when I was a Congressman, I was not paying attention to my business and a sheriff in one of my counties died, and I kept writing him for about 2½ years. I happened to be in the town that was the county seat of that rural county, and the new sheriff said to me, "Well, you need to know that the sheriff, that you are writing to, has been dead for 2½ years." So I said, "Well, I keep writing because maybe he will vote for me."

Basically, the point that needs to be made here that is relevant to this bill—and I want to speak in all sincerity and then I will stop, because I see our dear colleague on the other side of the aisle is standing with some exuberance and wants to speak. Let me say this: Maybe in some States vote fraud is not a problem. There are many States where it is a very, very real problem. I remember a very closely contested race for the U.S. House where the race was decided by several hundred votes and after the election was over, they went back and found some 300 people who were registered to vote and their address was a vacant lot.

It is very important that, not only that everybody be able to vote, but that everybody gets to vote only once. It is also very important that only people get to vote who have a right to vote.

And one of the problems with this whole bill is that it makes it very difficult to prevent voter fraud. It is especially difficult, it seems to me, when you give States very few alternatives.

If they decide they do not want to do all the things that are mandated in here, a State must either adopt no registration or must allow registration on the same day that the vote actually occurs.

Am I right on that?

Mr. McCONNELL. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. McCONNELL. The Senator is correct.

And to prove that his concerns are well-founded, we have just learned that the State government of Wyoming has already announced, the legislature there has already announced that if this bill passes, they will go to same-day registration—like that—in order to avoid the expense of this Federal mandate.

Mr. GRAMM. Let me ask the Senator a question. If someone were an illegal alien and walked in and wanted to vote and you had same-day registration, what would happen?

Mr. McCONNELL. I think, as a practical matter, there would simply be no way to check to see whether that person was registered or not.

The other option, I say to my friend from Texas, in the bill, if the State decides it is too expensive, is to have no registration at all.

Now we have one State in America that has no registration at all. And, to their credit, they never had a recorded case of fraud. There is no history of it in North Dakota. I think they all know each other, anyway. It is quite a small State.

But the Senator is right. They are left with two options. And my friend from Arizona has indicated it would cost $900,000 to Maricopa County, alone, in Arizona to comply with this legislation.

So it is not at all inconceivable, I say to my friend from Texas, that a State, pressed to meet so many financial burdens—many of which we have handed down to them—might well throw up its hands in frustration—even States, such as yours and mine, which have a history of election day shenanigans—and say, "We cannot afford this. We are going to go to same-day registration or no registration at all," and then the very fear that my colleague from Texas raises, that everybody's vote will be counted only once, is severely undermined by a bill that initially was well-intentioned.

And I would say to my friend, when the motor-voter bill was first produced a few years back, it did not have this fallback in it that left a State only with the option of going to same-day registration or no registration. That has somehow crept into this legislation, as it has moved through the legislative process.

And it is a great fear many of us have, that tremendous fraud and abuse will occur in certain areas of the country, such as our area of the country where this sort of thing does have a history.

Mr. GRAMM. If I could reclaim my time, let me say, I do see a pattern, I say to my dear colleague from Kentucky, and it is called in street language, bait and switch. And the basic bait and switch thing is, we always start out talking about something—for example we are going to get rid of PAC's. I remember our dear colleague, Senator BOREN, was going to get rid of PAC's. Then when we got around to reforming the election finance system, not only did we not get rid of PAC's, but we nearly wound up with taxpayer funding of campaigns.

Here is my point, and then I will yield the floor: I do not have anything against dead people. The problem is, all the dead people that would vote for me have gone on to Heaven. The ones that are going to vote against me—if we do not have some way of verifying that they are ineligible to vote—have not gone on to Heaven. If we could bring the ones back from Heaven and have a fair election, I would be happy to do it.

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

Mr. GRAMM. I am kind of afraid to, but I will.

Mr. McCAIN. As the Senator well knows, probably the segment of our society that has the lowest voter turnout, because of their circumstances, are the men and women in the military. They are away from home. They are spread all over the world.

I know that several times in my elections, we have attempted absentee ballot voter drives, and we found out many of the men and women in the military were unfortunately not registered to vote. Many had left home at an early age to join the military, some at age 18. Many of them have not been able to get home very often.

Does the Senator from Texas believe it might be appropriate to register voters at military recruitment centers, or Department of Defense facilities, particularly military recruitment centers, which are generally located in downtown, populated areas of the country?

Mr. GRAMM. I think anything we could do to help our service personnel vote would be good. But I am not holding my breath waiting for the Democratic majority to do that, because what the Democratic majority wants to do is to have the welfare office register people to vote.

I am not going to support any bill that forces the welfare office to register people but does not force the tax office to do it. I do not understand any objective in doing that, other than to tilt the outcome of the election process.

I want to make it clear: I would like every American who wants to vote to register and vote. I would like our military personnel to vote, and I hope they will vote in huge numbers in 1994 and 1996. I can assure them, if they do, we will not have to consider bills like this again.

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

Mr. GRAMM. Let me finish my point.

Basically, there can be no other purpose in trying to mandate that the welfare office register people to vote but the tax office not register people to vote than to distort the outcome of elections.

I have no doubt that a random selection of people from the tax office will produce voters for me. I have no doubt that a random selection of people from the welfare office will create voters for my colleagues, and I accept that.

I would like to eliminate welfare by creating jobs.

But I am not going to support a bill that has the welfare office registering and the tax office not registering. And that is basically what this whole bill is about.

I thank my colleagues for their indulgence and I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, before the Senator from Texas leaves, just to further elaborate on his point, it is right here in the bill.

Section 7, Voter Registration Agencies.

"Each State shall"—mandate—"Each State shall designate as voter registration agencies (A) all offices in the State that provide public assistance, unemployment compensation, or related services."

In subsection B:

"Voter registration agencies designated under paragraph (A) may"—

not "shall," but "may,"—and it lists other agencies, such as the Government revenue offices.

If we are going to register—and this is the point of my friend from Texas—if we are going to register in Government agencies, why not all of them? Why pick out some Government services as somehow more worthy of this assisted registration than others?

I thank my friend from Texas. I think he makes a very good argument.

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

Mr. WELLSTONE. Mr. President, I do not know quite where to begin. I see the Senator from Texas is leaving. I would have been pleased to have talked a little bit more about this piece of legislation.

Mr. GRAMM. I will stay a moment, if my colleague wishes.

Mr. WELLSTONE. I thank the Senator. I wanted to point out for the Senator from Arizona, and the Senator from Texas, that actually we do have an office of voter registration in the Pentagon. In fact, I think we did fax voter registrations during the Persian Gulf war. So I think it is a good idea. But I think there is an office that has as its sole responsibility to do the voter registration for men and women in our armed services. But that is not really my main point.

Mr. McCAIN. I just ask my friend from Minnesota, did he feel the military recruitment offices would be suitable places for voter registrations?

Mr. WELLSTONE. From my point of view, you want to have voter registration cards available for men and women in public places. I think that is a very important thing to do. I have no problem with that at all.

But let me simply try to respond to a little bit of what has been said here. First of all, the question comes up over and over again about fraud.

Let me say that the biggest fraud in this country is the fact that we make it so difficult for people to register to vote. I hear my colleagues actually saying, when all is said and done, that they are worried about the motor-voter bill because they are afraid that most of the 70 million people or thereabouts who are not registered to vote are going to vote for the Democratic Party. That is not what this is about.

Mr. McCAIN. Will the Senator yield?

Mr. WELLSTONE. I want to first have a chance to develop this line of argument.

Mr. McCAIN. For a question only?

Mr. WELLSTONE. I want to first have a chance to develop this line of argument because I have been waiting for a while. To my mind, that is what people in the country ought to take a look at here, now, on the floor of the Senate. What we have is a group of Senators who are saying we do not want to see this piece of legislation. It is called motor-voter because the motor-voter takes care of about 85 percent of the problem. Then you have agency-based because there are some people by virtue of low income and what not who do not own cars, or who would not be able to do it through motor-voter. We are attempting to reach out and make sure that people are able to register to vote in our country.

If you want to say that you are opposed to people being able to register and vote because you are afraid they are going to vote for the Democratic Party, or for Democrats—well, that can be a good up front argument. You should tell that to people with disabilities. You should tell that to many people who find it difficult to register to vote today in this country. But I do not, quite frankly, think that is a very democratic—with a small "d"—argument.

This is a civil rights bill. That is really what this is all about. And in some ways the obstacles that are being thrown up here to this piece of legislation remind me of what a little bit of the debate must have been like leading up to the Voting Rights Act. Again, the fear that a certain group of people, a certain segment of the population, will be able to register to vote and, my gosh, they might vote for Democrats.

I, frankly, do not know that the evidence actually supports that. I do not think we know. But here is what we do know. What we do know is there is a reason for this piece of legislation. The reason is that we have a huge number of Americans, 70 million plus, who are not able to register to vote. And it is not just because they are apathetic and do not wish to register to vote. We have, around this country, Byzantine rules and regulations. In some States—about four, Minnesota is one of them—you can register to vote on election day.

In one State, that came in North Dakota, that was the Nonpartisan League, you do not have to register to vote at all.

In other States it all depends. In some States you can register by postcard. You can pick up a form. But quite often those forms are not readily available. So even though in theory you could register by form and postcard and send it in, quite often it is just not available and you do not know where to pick it up.

In other States you cannot register by postcard, you have to figure out where to register to vote. And in all too many States and all too many counties in all too many States, people just do not know. And all too often the hours at which those offices are open are inconvenient—especially for, I would say to the Senator from Texas, working people.

So, Mr. President, this piece of legislation is about expanding political participation in the United States of America. It is about what my dad would say democracy is all about.

When the Senator from Texas talks about tax offices—there is nothing in this bill that says you could not have voter registration in tax offices. From my point of view, I think the more public places you have voter registration forms for men and women who want to pick them up so they are readily available and they could register to vote that way, the better off we will be. But I would point out to my colleagues, unless they have a particular problem with people with disabilities and people in the low income end being able to register to vote, that there are some people who might just not be covered by motor-voter. Thus we have the agency-based registration. Thus we make sure that there is not discrimination, economic discrimination against people. That is the basis of why we do the agency-based. That is why we have it in unemployment offices or welfare agencies, so on and so forth.

It is not a conspiracy. The only conspiracy to this particular bill is a conspiracy of political participation: The conspiracy of voter registration; the conspiracy of voter turnout; the conspiracy of expanding democracy; the conspiracy of encouraging people and enabling people to participate in the political process in America.

That is why the President of the United States supports this legislation. That is why I believe it will pass. It is no other kind of conspiracy—except for my colleagues. They are afraid of it. They are afraid of it because they want to decide, a priori, to make sure we continue to have all of these different rules and regulations which impose difficulties on some people in our country to register to vote because it is far better, from their point of view, to continue with the status quo than that those people—Americans who are not registered to vote—might, pray tell, register and vote. Would that not be terrible in that more people would register and vote in the United States?

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

Mr. WELLSTONE. I will be pleased to.

Mr. McCONNELL. The Senator's wife is from eastern Kentucky, right?

Mr. WELLSTONE. From Frankfort—Fayette, but her family is from Harlan and Letcher County.

Mr. McCONNELL. I would respectfully suggest to my good friend from Minnesota that tonight, without any prompting or suggesting what answer should be given, my good friend from Minnesota ask his wife, whose family is from Harlan County and Letcher County, which is the mountains of eastern Kentucky, counties in which we have election fraud litigation virtually every election—ask her if she would ask her relatives what chance there

would be of having an honest election in Harlan or Letcher County, KY, if the State government in Kentucky said to the Feds, "We do not accept your Federal mandate. We wash our hands of the whole thing. We will not go to motor-voter. We will try having no registration at all. Or same day registration."

Mr. WELLSTONE. First of all, what my wife, from Kentucky originally but living in Minnesota, would say to me, is, "Did Senator MCCONNELL suggest anything to you? Because, if so, you should think to the contrary."

But above and beyond that—and I mean that just in jest—I think that what Sheila would say is first of all she does not accept the assumption that people in eastern Kentucky are less honest than people in other parts of the country. The second point is you make all of these assumptions.

Mr. MCCONNELL. If my colleague will yield——

Mr. WELLSTONE. Nobody on this side has argued—if the Senator will let me answer—nobody on our side has argued that by virtue of the motor-voter bill, the State of Kentucky or any other State is, ipso facto, going to have to go to same day registration or with no registration. You make that argument. We do not.

And third of all, what Sheila would say—and I see the Presiding Officer, Senator KOHL from Wisconsin—I can only go by the evidence of our State; and in Minnesota, we have same day; in Wisconsin, they have same day registration, and we do not have a problem of fraud. So, speaking as a Minnesotan, I think she would simply not accept the premise of your question.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. MCCAIN].

Mr. MCCAIN. I thank you, Mr. President, I thank my friend from Minnesota who speaks passionately and eloquently, and frankly almost—almost everything he says I agree with. I remind him I come from a State that does have motor-voter. I come from a State that got a 65-percent voter turnout in the last election. Our goal in my State is to empower people.

My question is, obviously not to the Senator from Minnesota, but the question must be asked, "Why is it that the people of the other States cannot make those same decisions for themselves? Why is it that we as a Congress have to, one, force this upon States?" We have come up with what we think is the best method to increase our voter turnout and voter participation in the State of Arizona. The reaction of the elected officials who are required to carry out this legislation will be that, in our omniscience we are going to lay at least a $900,000 additional bill on the people of the county of Maricopa, who are perfectly satisfied with the electoral process as it exists and the dramatic increase in voter participation that we have experienced in Maricopa County and throughout our State.

So instead of letting us decide what is best for us in the State of Arizona and in Maricopa County, we are mandating to them an additional procedure which will cost one county an additional $900,000 and will decide procedures for our State that maybe we do not want. And to add insult to injury, we are not going to pay for it. We are going to tell the taxpayers to pay for it. We are going to tell the people of Maricopa County, even though you are perfectly satisfied with the legislation passed by the State of Arizona and our turnout will match up with anybody's in America, the fact is that we are not going to pay you, reimburse you for your additional expenses.

Mr. President, I say to my friend from Minnesota, not personally, but as a body, to me that is the height of arrogance that the people of a State with an enviable record of voter turnout, with a motor voter which is basically modeled along these lines are required to spend an additional $900,000 of their money—not mine, not of the Senator from Minnesota, not of the Senator from Kentucky—but their money in order to comply with a law that is coming down from the Federal Government.

Frankly, somehow that does not make sense. Perhaps the Senator from Minnesota can make an argument that there are parts of other States in the country that need motor-voter in his view and the view of this body, need a greater voter turnout. But why do it to my State? Why do it to North Dakota? Why do it to his own State? Why is it that the Federal Government has to do it when the State of Arizona can do it?

Mr. MCCONNELL. Will the Senator yield?

Mr. MCCAIN. I would just like to finish the thought.

I guess it gets to the basic fundamental philosophy, very frankly, Mr. President, that is the difference between our two parties. My view is that the least government, the local government, can decide best. Obviously, because of this legislation the view by the majority party is that only the Congress knows what is best and we will mandate the States to do these things and, as I said, in the height of arrogance, we will make them pick up the bill for what we decide is best for them. I will be glad to yield to my friend.

Mr. MCCONNELL. Mr. President, just for an observation. With all due respect for my friend from Minnesota, it is easy for him to engage in this debate because Minnesota is exempt from this bill. Minnesota has same-day registration. So it is not only a financial mandate but in terms of a Minnesotan lecturing a Kentuckian about this, this bill does not even apply to Minnesota. Minnesota already has election day, mail in, motor-voter, agency based, and it is apparently working very fine in Minnesota, I would argue. But clearly no one who is at all familiar with Kentucky would argue that Kentucky ought to have same day or no registration at all. And that would be the only option if people in Kentucky concluded, as at least one county has concluded in Arizona, that the costs of this are quite onerous.

Mr. WELLSTONE addressed the Chair.

Mr. MCCAIN. Mr. President, do I still have the floor? I would like to allow my friend from Minnesota to respond to that and maybe we could have a reasonable exchange here. I will be glad to yield to my friend from Minnesota.

Mr. WELLSTONE. I am about ready to move to table. Does the Senator from Arizona wish to speak more on this?

Mr. MCCAIN. I would like to finish. I had yielded to him but——

Mr. WELLSTONE. Let me just yield to the Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my friend from Minnesota. I would perhaps like to return, Mr. President, to what this amendment is all about.

We had a very interesting and, I think, enlightening philosophical discussion about the bill. I think that is important, but I would like to mention again about this amendment before we actually have the vote, which I am sure will be momentarily.

This simply says that agencies that do dispense benefits to their clients will not be allowed to register those clients to vote. People with disabilities, where it is convenient and where it is inaccessible, will, of course, be allowed to register there. Otherwise they would fall under the requirement to register somewhere else.

I think it is very simple, I think it is straightforward. I think that we would prevent the possibility of abuse and I hope that we can adopt this amendment and make sure that we treat everyone of our citizens with fairness. I think we pretty well ventilated the issue as to whether the Federal Government or the States should be making these decisions. And, since this bill clearly has a majority support, at least that is certainly the view that one gets from the cloture vote, I hope we can adopt this amendment.

Mr. President, I appreciate the debate with my friend from Minnesota, with my friends, both the senior and junior Senators from Kentucky, and I appreciate their participation. Mr. President, I yield the floor.

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

Mr. WELLSTONE. Mr. President, we have had a full debate. I do not know that there is more to say. I will say to my colleague, the junior Senator from Kentucky, it has not just been the Sen-

ator from Minnesota who has been speaking in behalf of this legislation, this proposed legislation, but also the senior Senator from Kentucky. Actually, I think as a Senator from Minnesota, I am in a very good position to talk about the motor-voter bill because Minnesota is at the top of the Nation in voting participation, and Minnesota is very proud, in fact, of our voter registration laws. We have motor-voter, we have agency-based and we have same-day registration. So I speak from some experience, both as someone even not as a legislator but as a teacher who helped write some of that legislation and watched the way it worked in the State. It was exciting to me to see some citizens in our State, and I am sure the Chair has seen the same thing in Wisconsin, who I know would not have been able to vote, otherwise, now able to register and vote and participate in the political process.

Mr. President, let me just conclude by saying one more time, I really believe that there is no particular label that can be applied to this bill. The motor-voter bill really is about expanding democracy and political participation. I think that the McCain-McConnell amendment goes in the opposite direction and I will, one more time, remind my colleagues as they come down here to vote, that we have a very strong list of organizations, just starting with people who are disabled, because I think that is part of what this is about is accessibility, who are opposed to this amendment: The Disabled American Veterans; the Paralyzed Veterans of America; the American Council of the Blind; the United Cerebral Palsy Association; the National Association of Developmental Disability Councils; the National Council on Independent Living; the Association for the Severely Handicapped; the Affiliated Leadership League of and for the Blind of America; and Disabled and Able to Vote.

The reason, Mr. President, that you get such strong opposition from disability organizations is because they know that the agency-based registration part of this is an important complement to the motor-voter part for them and for many other Americans as well.

This, I think, really is a good Government piece of legislation. Either the Government at the State level or at the county level operates in such a way as to discourage voting registration and participation, or there is a way that Government can reach out affirmatively in a scrupulously nonpartisan way and make sure that American citizens, regardless of income, regardless of region, regardless of race, regardless of disability, regardless of age, are able to register to vote. That is what this motor-voter bill is all about.

Mr. President, at this point in time, I move to table the McCain-McConnell amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 79, offered by the Senator from Arizona. The clerk will call the roll.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL Mr. President, I say to my friend from Minnesota, who is a distinguished former professor of government, he knows full well that election fraud depends on where you are in the country. The fact that there is no history of election fraud in States like Minnesota or Wisconsin or North Dakota simply says nothing about whether you would have election fraud in certain areas of the country if a State concluded that they would not go to motor-voter but rather go to same-day registration or no registration at all. So I think the Senator from Arizona has offered a good amendment. I hope it will not be tabled.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 79. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. (Mr. FEINGOLD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—55

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Heflin	Murray
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Reid
Byrd	Johnston	Riegle
Campbell	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
DeConcini	Kohl	Sasser
Dodd	Lautenberg	Simon
Dorgan	Leahy	Wellstone
Durenberger	Levin	Wofford
Exon	Lieberman	
Feingold	Mathews	

NAYS—42

Bennett	Cohen	Gorton
Bond	Coverdell	Gramm
Boren	Craig	Grassley
Brown	D'Amato	Gregg
Burns	Danforth	Hatch
Chafee	Dole	Helms
Coats	Domenici	Kassebaum
Cochran	Faircloth	Kempthorne
Lott	Nickles	Smith
Lugar	Nunn	Specter
Mack	Packwood	Stevens
McCain	Pressler	Thurmond
McConnell	Roth	Wallop
Murkowski	Simpson	Warner

NOT VOTING—3

Hatfield	Krueger	Shelby

So the motion to lay on the table the amendment (No. 79) was agreed to.

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

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

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I rise today to show my support for this very important motor-voter legislation.

Mr. President, we know that voting is fundamental to our democratic system. Yet about 70 million eligible Americans—nearly one-third of those eligible—cannot vote because they are not registered.

Every election we see all kinds of reports about voter apathy and the low turnout of voters.

But the facts show that in Presidential elections since 1968, voter turnout among registered voters has been 80 to 90 percent. In fact, in the election this past November, over 85 percent of the registered voters actually cast their vote for President.

That's good turnout and it shows me that the American people do care enough to participate in the democratic process when they can. We have to empower more people to participate.

Mr. President, we could go into all kinds of studies about why people are not registered, or we could get into a big debate about whether the real problem is voter registration or voter turnout, but I do not think that is the issue here.

The issue is: "Is this motor-voter law something that we as Senators can do to support the operation of democracy here in the United States?"

Mr. President, we have fought many wars and given billions in foreign aid to support democracy in other lands—this is something we can do to spread democracy in our own country.

The motor-voter program can work. Several States have already proven that it does.

According to the League of Women Voters, in the 1992 elections, voter turnout increased twice as much in States with motor-voter programs as in other States.

The voter registration in motor-voter States increased five times more than the registration increases of other States without motor-voter.

Mr. President, I am proud that my own State of Maryland is one of the leading States to take active steps to encourage voter registration.

In Maryland, we have mail-in registration and hotline numbers so that Marylanders can request a voter registration form 24 hours a day, and that

includes a special T-D-D hotline for Maryland's hearing impaired.

We have registration forms available in public buildings all over the State—in libraries, post offices, schools, and college campuses.

And now Maryland residents can even register at some offices of the department of motor vehicles because voter registration forms are available there.

But, Mr. President, while my State is a frontrunner, people in other States are not as fortunate. They may not have the commitment and dedication to register voters that Maryland has. And we have to help those people.

It would be nice if American citizens all had unlimited amounts of time to track down registration offices that are sometimes located in hard-to-find places—or to take time off work to register at offices that are open only during restrictive hours.

But the fact is that they do not. And having the time and transportation to track down registration offices should not be a test of a citizen's right to vote.

Let me say that again, it is important, voter registration procedures should not be an obstacle to a citizen's right to vote.

We need to do whatever we can to make voter registration convenient and accessible for all citizens. They all have the right to vote and should be able to do so.

Mr. President, I urge my colleagues to join me in doing what we can to support and spread democracy at home—we must pass the motor-voter bill.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I am not sure where we go from here, whether or not we have other amendments. I would like to try to give my colleagues some answer as to how long we will be here tonight.

Mr. MCCONNELL. Mr. President, it is my understanding that the Senator from Oklahoma [Mr. NICKLES] is ready to offer an amendment.

Mr. FORD. Mr. President, would my colleague be able to tell me how many amendments he thinks may be offered to this?

Mr. MCCONNELL. We have several more, and we still have the core package we are working on.

Mr. FORD. These are not going to be included in the core package? Are we going to get one on the death penalty, also?

Mr. MCCONNELL. I cannot guarantee that all of the amendments will be germane. We are still working on the core package, and as I indicated to my friend from Kentucky and the leader, we hope to be able to get it together sometime today.

AMENDMENT NO. 80

(Purpose: To put off the effective date with respect to a State until January first of the year after the year in which Congress enacts legislation authorizing and appropriating funds to pay the State's costs of implementing the act)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. DOLE, Mr. WALLOP, Mr. HELMS, Mr. SMITH, Mr. MACK, Mr. KEMPTHORNE, Mr. MCCAIN, and Mr. COVERDELL, proposes an amendment numbered 80.

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

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

The amendment is as follows:

Strike section 13 and insert the following:

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

(b) FUNDING.—(1) Not later than 180 days after the date of enactment of this Act, a State may submit to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives an estimate of the costs that the State and each political subdivision of the State will incur in implementing this Act that are in addition to costs that the State or subdivision would incur in the registration of voters absent this Act.

(2) This Act shall not take effect with respect to a State that makes a submission under paragraph (1) until January 1 of the year following the year in which Congress enacts—

(A) an Act authorizing payment to the State and its political subdivisions of the additional costs of implementing this Act in the amounts estimated by the States under paragraph (1), unless Congress, in a provision that makes specific reference to this subparagraph, finds and declares that payment of a lesser amount in the case of any particular State will be sufficient to cover the State's additional costs; and

(B) an Act making appropriations in the amounts necessary to make the payments described in subparagraph (A).

Mr. NICKLES. Mr. President, the amendment I sent to the desk today on behalf of myself, Senators DOLE, WALLOP, HELMS, SMITH, MACK, and KEMPTHORNE is very simple. It is an amendment that says, as far as the motor voter legislation is concerned, it will not go into effect until we pay for it.

The theory of this is very simple. Myself and many of us—probably the majority on the floor of the Senate—have said that we should not be passing mandates on the States without paying for it. Yet, we have done it time and time again. I do not think we should do it again.

This is one excellent example of a place where we should not be putting additional unfunded mandates on States, unnecessarily so. In my State of Oklahoma, I have had contacts from election officials. I have had contacts from State officials. I have had contacts from education officials. Several said: Please do not give us more mandates without paying for it. So that is the thrust of this amendment.

Reading parts of the amendment, it says:

Not later than 180 days after the enactment of this Act, a State may submit to the committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives an estimate of the costs that State and each political subdivision of the State will incur in implementing this Act that are in addition to costs that the State or subdivision would incur in the registration of voters absent this Act.

This act shall not take effect with respect to a State that makes a submission under paragraph (1) until January 1 of the year following the year in which Congress enacts * * *.

If we think the costs are exorbitant or something, we can change that. But the thrust of it is we should not be passing unfunded mandates to the States and making them pay.

A lot of States are having real financial difficulties, mine included. The State of California and several other States are having difficulties. Yet, the cost of this legislation is in the millions of dollars. It is estimated, I believe, by CBO to be $20 million to $25 million per year over a 5-year period of time. That is $125 million. They also estimate that the cost of getting started is in the neighborhood of about $75 million in addition to that.

So you are talking about a $200 million expense mandated on the States. The States seem to think it is going to cost a lot more than that. As a matter of fact, the Conference of State Legislatures did a cost estimate, and 41 States responded and estimated the cost each year at $58 million. I might also mention that many States really do not need this. Many States are already doing a very good job. In my State, we have voter registration now in excess of 90 percent. I even have a letter from Oklahoma State Election Board that says they are doing it at a much less cost. In Oklahoma, we do it for one-tenth the estimated cost that would apply under this bill.

Mr. President, this amendment is supported by numerous organizations. Let me just touch on some of the letters that have come in saying: Please do not pass this, unless you are going to fund it.

One, I mentioned the Oklahoma State Election Board. It says: Oklahoma is ranked third nationally in the percentage of voters registered, and the cost to taxpayers is about $120,000 annually. It says that major elements of the National Voter Registration Act will cost Oklahoma 10 times that amount and will not increase registration, may reduce voter turnout, will force registration rolls to close earlier, and will destroy Oklahoma's good registration system along with new and popular voting options that have potential to increase turnout.

In Oklahoma, the National Voter Registration Act will be costly, unnecessary, and counterproductive.

Mr. President, I could go on and I will mention a couple of others. This is from the State of New York, department of state. They support this legislation, but they condition their support on the appropriation of funds to implement its requirement. I think that is a legitimate caveat.

The National Conference of State Legislatures wrote a letter that says: Do not pass this unless it is funded.

The National Association of Counties says:

We offer strong support for your amendment to reimburse State and local governments for any new activities required under the Act. And we further urge all Senators to support this amendment.

The Midwestern Universities Alliance: "Federal unfunded mandates impose an enormous burden on State budgets." So they support this amendment.

Bob Taft, who is secretary of state in Ohio, says:

However, the Federal motor-voter bill contains several mandates that are of great concern to me and the election officials throughout Ohio due to the costs associated with them.

He continues:

A delay in the effective date of this bill until Congress authorizes and appropriates the funds necessary to carry out this mandate clearly seems warranted given the already serious financial constraints other unfunded mandates have placed on States and local governments. I hope the Senate will adopt your amendment.

The American Association of State Colleges and Universities also endorsed this.

Mr. President, I ask unanimous consent the letters I am reading from be printed in the RECORD at this point.

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

OKLAHOMA STATE ELECTION BOARD,
Oklahoma City, OK, January 27, 1993.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: Once again, as my predecessor Lee Slater did before, I urge you to consider the effect the National Voter Registration Act will have on Oklahoma.

Oklahoma's voter registration system isn't broken; it works well. Oklahoma is third nationally in the percentage of voters registered and the cost to taxpayers is about $120,000 annually. Major elements of the National Voter Registration Act will cost Oklahoma ten times that (see attached estimate), will not increase registration, may reduce voter turnout, will force registration rolls to close earlier, and will destroy Oklahoma's good registration system along with new and popular voting options that have potential to increase turnout.

In Oklahoma the National Voter Registration Act will be costly, unnecessary and counterproductive.

Attached is a sheet from the August 11, 1992, report from the Congressional Research Service Report for Congress which indicates that in the 1990 General Election Oklahoma ranked third nationally in registration of voting age population. Statistics are not yet available for 1992, but Oklahoma will continue to rank very high and, in spite of a 1993 purge to eliminate 350,000 or so persons who have not voted during the past eight years, Oklahoma's registration ranking will remain high in 1994.

Motor voter, mail and agency based registration will do away with Oklahoma's system of registrars who work almost everywhere and are paid when they seek out voters at retail and grocery stores.

Also in jeopardy is Oklahoma's new option for voting that permits anyone to vote by mail or in person before election day. Almost 100,000 did that in November, three times the previous absentee record, and continued dramatic increases are expected unless there is unchecked abuse, which becomes far more possible with mail and similar registration schemes. The potential for fraud increases with each liberalization of registration or voting procedures. Oklahoma has kept a successful face-to-face registration system while opting to make voting easier and more convenient. If forced to abandon in-person registrars for impersonal and liberalized registration, the result likely will require a retreat from reforms that appear to increase voting.

Another negative effect of motor voter, mail and agency registration will be to increase the time when registration must be closed. Oklahoma now closes registration ten days before an election, among the shortest nationally. With the proposed systems, time must be added to permit forms to be transmitted to appropriate jurisdictions, checked and entered into registration records. When listed according to registration percentages it is impressive to note that states, such as Oklahoma, with short closed registration times rank high while states with the longer closed times generally rank low.

In Oklahoma voting, not registration, should be our focus. States should be judged based on meaningful performance. One organization promoting motor voter rated Oklahoma as a "worst" registration state while extolling the virtues of their "best" list which includes Texas because their "best" states had liberal registration systems. For what it's worth, Oklahoma ranks 3d in voter registration and Texas is 35th. Oklahoma ranks 25th in voter turnout and Texas is 43rd. In 1992, Oklahoma led the nation in turnout percentage increase, Texas was 43rd.

If voter registration must be reformed, let the reforms occur where there is some evidence change is needed. For Oklahoma, the National Voter Registration Act isn't the solution, it's a problem. It will not improve registration but will push Oklahoma backward in areas where your home state has been and is becoming a national leader.

I would be pleased to provide any information you request.

Sincerely,

LANCE WARD,
Secretary, State Election Board.

Estimated annual costs of National Voter Registration Act components

Mail and agency based registration:	
Forms printing: 2,000,000 annually	$40,000
Forms distribution from SEB to 500 locations	3,000
Forms returned to SEB (Approx. 175,000 per year)	65,000
Forms forwarded to CEB from SEB (Two per county per mailing)	25,000
Mail confirmation and/or ID card from CEB to applicant (Approx. 175,000 per year)	50,000
Mail verification annualized	145,000
Followup, undeliverable, etc. (20 percent estimated)	40,000
Total annual estimated cost: (Excludes personnel)	368,000
Motor voter (Exclusive costs only. Some costs are included above):	
Forms printing (2,000,000 annually)	$25,000
Forms from License Agents to SEB (one mailing per week from 300 locations at $2 per)	30,000
Forms forwarded to CEBs from SEB (one mailing per day to 50 locations at $1 per)	100,000
Forms from License Agents to CEBs (one mailing per week to 25 CEBs at 0.50 per)	5,000
Mail confirmation and/or ID card from CEB to applicant (Approx. 325,000 per year)	65,000
Followup, undeliverable, returned, etc. (20 percent estimated)	15,000
Total annual estimated cost: (excludes personnel)	235,000
Grand total mail and materials	603,000
Estimated personnel costs (estimate simply assumes double mail and materials cost)	603,000
Grand total all estimated costs	1,206,000

STATE OF NEW YORK,
DEPARTMENT OF STATE,

Albany, NY, March 2, 1993.

Hon. DON NICKLES,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: As President of the *National Association of Secretaries of State* (NASS), I am writing to express our association's strong support for the concepts in HR 2, the National Voter Registration Act of 1993. In 1989, NASS went on record in support of the concept of Motor-Voter; a copy of that Resolution is attached for the record.

There is one caveat, however, in our support of HR 2. As an organization of state officials, we are understandably concerned about the fiscal impact of any unfunded federal mandate, no matter how laudable the intent. Therefore, as you will note in the

Resolution, our support as an association for Motor-Voter is conditioned on the appropriation of funds to implement its requirements.

Therefore, I would like to express our Association's support of the amendment you plan to offer during Senate deliberation of the Motor-Voter bill which would condition implementation of the provisions of HR 2 on the provision of funds for states and localities to properly fulfill the requirements of the bill.

As an organization representing the chief election officials of forty-four states, NASS is in the forefront of attempts to ensure maximum voter participation. In the past we have undertaken studies and made recommendations aimed at identifying and eliminating structural barriers to registration and voting. Today, our work continues in many forms, primary among them the work of the National Commission on the Renewal of American Democracy, also known as "Project Democracy."

The work of that Commission is showing clear proof that making it easier for citizens to register has a direct impact on electoral participation. Clearly "Motor-Voter" is one method that has been tried in several states with some noticeable results. To further substantiate the results of the efforts of some of the pioneering states which have already implemented a form of motor-voter, I would refer you to the testimony of several of my colleagues who testified before the Committee on House Administration's Subcommittee on Elections.

Motor-Voter and agency-based registration can have very positive impacts on participation in our democracy; providing funding will go a long way toward ensuring that they are properly effectuated. It will also initiate a new partnership approach between the federal government and the states in conducting our electoral processes.

Sincerely,

GAIL S. SHAFFER.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, March 3, 1993.

Hon. DON NICKLES,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: We write not to oppose S. 2, the "motor voter" bill, but to urge deliberate consideration of costs the bill would impose on states. Although many states have found registration at multiple public offices to be a great convenience to voters, the provisions of S. 2 contain additional mandates even for states that have adopted legislation. According to House Report 103-9, the Congressional Budget Office (CBO) estimates conservatively a cost of $20 million annually for the first five years just for states that do not have some form of motor voter registration. An additional $5 to $10 million in annual costs would be imposed on local jurisdictions. Computerization could cost an additional $25 million in the first year. NCSL surveyed the states last year and determined that the cost of purging voter registration lists alone could run as high as $35 million. And these estimates are conservative. Consider that California estimates that it will cost the state $26 million annually to implement the bill.

You have been sympathetic to NCSL's concerns about unfunded mandates in the past, and the inclusion of postal subsidies is a step in the right direction. We hope that Congress will be persuaded to avoid transferring further costs to state and local governments in establishing voter registration procedures for national officeholders. As we consistently contend with respect to mandates, accountability in government is fostered by each level of government paying the costs associated with programs that it proposes.

We therefore urge that you amend H.R. 2 to include authorization of sufficient federal appropriations for proper implementation. We believe that $75 million should be appropriated in the first year and that annual appropriations of at least $40 million would facilitate prompt and effective implementation of the Act.

Federal appropriations would not simply fund the mandate, they would insure that the law is implemented and that more Americans are registered to vote. Once again, thank you for your consideration. We look forward to a continued partnership on issues of unfunded mandates.

Sincerely,

ART HAMILTON,
House of Representatives, Arizona,
President, NCSL.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 9, 1993.

Hon. DON NICKLES,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: Now that the Senate has voted to cut off debate and proceed to consideration of the National Voter Registration Act (S. 460), we offer our strong support for your amendment to reimburse state and local governments for any new activities required under the Act. And we further urge all Senators to support this amendment.

While we support the concept of removing barriers and expanding access to voter registration, we do have some concerns about the bill. Our primary concern is the bill will impose another unfunded mandate on state and local governments at a time when they are struggling to meet existing financial obligations. Los Angeles County estimates the bill will cost the county an additional $5.5 million and the state of California estimates it will cost the state an additional $26 million.

As you well know, federal assistance to states and localities has declined drastically since 1981. During the same period, the number of unfunded federal mandates on state and local governments has increased significantly. Each time a new federal mandate is enacted, state and local officials are forced to make the tough decisions on raising taxes and cutting existing services to pay for the new mandate. Needless to say, these tough decisions have caused many of them their jobs.

As you consider S. 460 and other mandates on state and local governments, we would merely urge you to ensure, at the very least, that full funding is provided to states and localities to implement new initiatives. Thank you for your consideration and please feel free to contact Larry Jones of the NACo legislative staff if you have any questions.

Sincerely,

LARRY E. NAAKE,
Executive Director.

MIDWESTERN UNIVERSITIES ALLIANCE,
Washington, DC, March 2, 1993.

Hon. DON NICKLES,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: In behalf of the members of the Midwestern Universities Alliance, I want to commend you for seeking to amend "The National Voter Registration Act of 1993" so that its provisions will not be implemented until there is a federal appropriation to pay for its cost.

Any measure that increases voter turnout is to be commended; the motor-voter bill would provide important benefits, especially for college students. So we do not oppose the bill; we oppose the requirement that our states must defray the cost.

Federal unfunded mandates impose an enormous burden on state budgets. After the states finish paying for mandated costs, there is little left for public higher education. I am sure that you and your colleagues are aware of the budget cuts from which higher education institutions have suffered. Mandates are a significant part of the problem.

Thank you for your leadership on this issue.

Sincerely,

NEWTON O. CATTELL,
Director.

STATE OF OHIO,
Columbus, OH, March 3, 1993.

Hon. DON NICKLES,
U.S. Senate,
Hart Senate Building, Washington, DC.

DEAR SENATOR NICKLES: I am writing to endorse your amendment to H.R. 2, The National Voter Registration Act of 1993, which seeks to delay the bill's provisions from becoming effective until Congress authorizes and appropriates the funds to pay its costs to the States.

Ohio already has motor-voter and registration by mail. I have continuously sought to make voter registration more convenient and accessible for all Ohioans, and I support H.R. 2 because it will help us to accomplish that goal.

However, the federal motor-voter bill contains several mandates that are of great concern to me and the election officials throughout Ohio due to the costs associated with them.

In addition to the significant costs associated with the implementation of the motor-voter system described in H.R. 2, the purge procedure outlined in the bill are equally costly. Under H.R. 2, voters could not be removed from the voter rolls until after the second federal election following the mailing of a forwardable postcard. This will require Ohio to add two additional years to our purge cycles, causing boards of elections to bear the costs and the risks of inflated voter rolls during that period.

The use of the National Change of Address System is an option for certain counties. However, there is a substantial cost associated with that system which is likely to be prohibitive to a number of counties in Ohio whose budgets are under tremendous strain.

A delay in the effective date of this bill until Congress authorizes and appropriates the funds necessary to carry out this mandate clearly seems warranted given the already serious financial constraints other unfunded mandates have placed on State and local governments. I hope the Senate will adopt your amendment.

Thank you for your efforts on this measure.

Sincerely,

BOB TAFT,
Secretary of State.

AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES,
Washington, DC, March 10, 1993.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: On behalf of the American Association of State Colleges and

Universities (AASCU) I am writing to inform you of the association's long-standing public policy position of discouraging efforts by Congress to pass legislation that imposes unfunded federal mandates on the states. Higher education in America is being financially strangled by unfunded federal mandates. In recent years, states have been forced to divert scarce resources from vital programs in order to comply with new federal directives. Higher education is one of those areas that has taken a large hit as a result of newly mandated federal initiatives.

Average state funding of higher education has decreased, in absolute dollars, for the last two years. This reduction in funding is an historic reversal of public support for higher education. It is happening not because the states have stopped valuing higher education, but rather because unfunded federal mandates have dried up all sources of a state's discretionary revenue. One striking result is that public college tuition has soared, which in turn limits access to higher education for our nation's poorest students.

We encourage efforts by Congress to weigh the cost of imposing new mandates on states without offsetting appropriations.

Sincerely,

EDWARD M. ELMENDORF,
Vice President for Governmental Relations, Division of Governmental Relations, and Policy Analysis.

Mr. NICKLES. Mr. President, this amendment is simple and very plain, and it is very important that it be adopted. I am hopeful that my colleagues will agree with myself and Senator DOLE.

I thank Senator DOLE, because he helped me in formulating this language. It is almost identical to language we had on the floor of the Senate in the last Congress. I thank Senator DOLE and his staff for their help. I am hopeful that my colleagues will agree.

I might mention, I have heard President Clinton say we do not want to pass additional mandates on States. He is a former Governor, and most former Governors can appreciate this. Many of us have served as Governors or State legislators, and we resent that the Federal Government comes up with a heavy-handed unfunded mandate, telling us how to spend our money.

So that is the purpose of this amendment, Mr. President, I am not trying to kill the legislation. I am trying to say, wait, if we are going to pass this, if it is such a good and worthy goal, let us fund it and make sure we do not put an unnecessary financial burden on the States.

Mr. President, I yield the floor.

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

Ms. MOSELEY-BRAUN. Mr. President, I rise in opposition to this amendment. I was just here in the Chamber this morning to talk about the issue of unfunded mandates and the effect on State and local government.

I come from a background in State government and local government as well and recognize the importance to those units of government of having the information regarding what it is that this body, this Congress, does, to push along requirements and mandates to those local units of government.

I filed legislation this morning calling for disclosure so there would be information sharing, so that there would be sunshine on the process, so State and local governments could adequately plan for the kinds of requirements that are being sent forward from the National Congress.

I find it ironic, Mr. President, that this amendment comes on this legislation which does precisely that which the State and local governments want to have done. State and local governments want to know what the costs are.

This legislation has cost estimates associated with it, and there has been discussion over time regarding the impact in terms of the finances and the shifting reality of costs at the State and local level.

This legislation is grassroots legislation. It is legislation to address the needs of the people at the State and local level and, indeed, Mr. President, some 69 organizations have signed onto this legislation and mayors and Governors have signed onto this legislation precisely because it does the people's will. It expands the franchise. It gives people an opportunity to participate in this great democracy.

So I find it not only ironic but specious to suggest that the issue of mandates is somehow a bar to this legislation. It is simply a delaying tactic, Mr. President. It is simply yet another barrier for this people's grassroots legislation to overcome on its way to final passage.

I encourage support for the underlying legislation, and I encourage the Members to defeat this amendment.

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

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators MCCAIN and COVERDELL be added as cosponsors.

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

Mr. NICKLES. Mr. President. I appreciate the comments that were made by the Senator from Illinois. If you look through the legislation, this legislation consists of 29 pages. It is not overly complicated. But I just went through and started marking the number of "each State shall" and again maybe somewhat resenting the idea of the Federal Government dictating the State function because it is a State function for registration. That is a State obligation and a State responsibility. When we say we are against Federal mandates, I want you to know if you look at the legislation in the 29 pages, you will find 30 times the States are told to do something.

Page 3, "* * * each State shall establish procedures to register to vote * * *."

Pages 4 and 5, "* * * under State law shall serve as an application for voter registration with respect to elections for Federal office."

"Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license."

I can go on and on.

I look through here and again I found 30. It says, "States shall include a means by which an applicant may decline* * *."

"Each State shall accept and use the mail voter registration application form* * *."

"A State shall make the forms described* * *."

It goes on and on. There are 30 "State shalls" in these 29 pages.

Again some States are doing an excellent job. My State is doing a good job and doing it inexpensively.

So why should we take a system that is doing something very well and mandate something that is going to be very expensive? It will be open to fraud, because a lot of people unfortunately get a driver's license that frankly are not even legal in this country. And so I hate to open it up and make it more abusive and more expensive for States to fail to comply.

In my State you can register very close, up to a few days before election.

They say if we pass this bill, they are not going to have registration up to a few days and are going to have to cut off registration quite a bit before to make sure that this law is complied with.

Again, coming from Oklahoma, the State election board happens to be controlled and dominated by Democrats. So I hope that this is not perceived as strictly a partisan issue or amendment.

I know my friend and colleague from Georgia and others have stated in the past they are opposed to mandating unfunded mandates onto States.

So I would hope that my colleagues would support this amendment.

The PRESIDING OFFICER. Is there further debate?

The Chair recognizes the senior Senator from Kentucky.

Mr. FORD. Mr. President, I understand if there is no further debate the Chair is required to put the question. That would not disturb me at all.

The amendment is the same amendment basically that we voted on last time and was defeated by an overwhelming margin. I guess there is a theory around this town that if you are against something, it is going to cost a whale of a lot; if you are for something, it is not going to cost very much. Maybe somewhere in between is the real cost, but CBO figures say that is somewhere around $20 or $25 million. That is probably a one-time cost. Once you get into the cycle, it is 18 cents a voter, and the cost somehow does not

ring true. When the State of Texas instituted the similar procedure to motor-voter, it did not appropriate one thin dime more in order to put it in place, and already this year have registered 50,000 new or additional voters.

Everybody hears something about computers. There is nothing in this legislation that mandates computers.

I hear the Senator from Oklahoma saying it is going to make us do so and so about cutting off the rolls earlier. There is nothing in this legislation that says you have to change your State law as to when is the time to close the books for registration for the election. I do not see that in there anywhere.

It is just trying to conjure up all these things to try to prevent the individual citizen from having a right to have a convenient way of registering to vote.

He said it went up 5 percent last year. That is wonderful. Nobody told me how many people wanted to vote but were not registered. If they had under this bill been registered we could have had a 10- or 15-percent increase.

So, all these things we hear, and I do not understand the gridlock here. I do not understand why the Republicans are so violently opposed to this legislation. This side is just saying. We want democracy. We want people to participate. We want to make it convenient. We do not care what station of life you are in, at what income level you may be. We want you to participate and if you reconnect your citizens with Government, I think Government will improve.

So, this bill is not about unfunded mandates. We hear the same argument over and over again. It keeps coming. It is not about cost. It is not about fraud. It is about whether our Government should be active in extending the opportunity for our citizens to register to vote or whether Government should be passive. That is the question here. It is about time we recognized that the centerpiece of democracy is the individual citizen. This bill does just that. It will enhance the opportunity, and I repeat, Mr. President, the opportunity for citizens to vote.

Oh, we here hear this will not increase turnout. No one is saying it will increase turnout. All we are saying is that you have an opportunity to make it convenient for the American citizen and at all levels to register and to exercise their God given right under the Constitution. We do not need anymore barriers. We do not need any more hoops or walls to jump up or climb over in order to be registered.

They want to put all the pressure on the citizen. They want them to be responsible for everything. Why not make it easy for them? And that is all we are trying to do here, Mr. President.

Let us give the people the opportunity. Let it be the choice of individual citizens not to vote if that is their choice, but be registered and vote if they want to.

A registration system that determines whether they vote or not is wrong. I think that is wrong.

You ought to have the right to vote or not to vote. And under this bill, if you do not vote, you are not automatically purged.

So, Mr. President, I hope that my colleagues will turn this amendment down also. And it appears that we are going to continue with another amendment and another amendment, and so we will be here awhile.

As one fellow said, "Don't leave on your boat to Mandalay for a while."

I yield the floor.

Mr. McCONNELL. Mr. President, this bill is most certainly about unfunded mandates.

The Senator from Arizona was over here just a few moments ago pointing out that in his State alone, in one county, Maricopa County, the additional costs will be $900,000 a year. And this is in a State that is already quite progressive, a State that already has motor-voter, a State that already has high turnout. Nevertheless, their judgment is that this bill will require compliance costs of $900,000 a year.

Make no mistake about it. This is not a no-cost bill. This is an unfunded mandate bill.

The amendment of the Senator from Oklahoma is right on the mark.

A lot of colleagues here say frequently that they are in favor of stopping this practice of unfunded mandates. The junior Senator from Illinois today, as she just pointed out, introduced a measure just today on this very subject.

Now it was, I gather—I will not speak for her; she is on the floor and can speak for herself—it was sort of a red flat amendment, under which the CBO would tag these amendments. But regardless of the specificity of the bill that our new colleague from Illinois introduced just this morning, it was indeed on the subject of unfunded mandates.

And my colleague from Kentucky said on April 7, 1987—my dear colleague from Kentucky, the principal supporter of this bill:

> As a former Governor of the Commonwealth of Kentucky, I am concerned that the Federal Government sometimes asks State and local governments to assume responsibilities and deliver services without any consideration of how such mandates will affect our constituents as State and local taxpayers.

So all of us, at one time or another, have expressed concern about unfunded mandates.

The bill of the senior Senator from Kentucky in 1987, as I recall, only affected measures that would mandate above $50 million.

We are not quite sure what this is going to cost. Senator McCAIN has heard from just one county in Arizona that it cost them $900,000. We have been kicking around various cost estimates from first one group and then another. It is not inconceivable to this Senator that this could be a mandate in excess of $50 million. It may not be. We do not know for sure.

What we do know is that it is an unfunded mandate in some amount.

The President of the United States, I say to my friend from Oklahoma, said just a couple of years ago, and repeated on the campaign trail last year and may have even said after becoming President—I do not recall specifically—that he did not like unfunded mandates.

Gov. Bill Clinton said on June 7, 1990:

> States do not have the luxury of operating a budget deficit. Every mandated dollar that we spend is a real dollar that has to be taken from another program. As Governors, we have to make very difficult choices in a wide array of health and human services initiatives. We have found ourselves cutting back on important educational initiatives, closing charity hospitals, unable to fund increases in cash assistance levels, and slashing a variety of important State programs that provide health and support services to our low income citizens.

That was Gov. Bill Clinton in 1990, now President, obviously, of the United States.

So the Senator from Oklahoma is right on the mark. This is an unfunded mandate. You cannot just stand up and claim that it is not what it is. That is what it is.

Nine-hundred thousand dollars in Maricopa County, AZ, alone, to comply with this bill; in a State with a progressive history of turnout, a State in which a large number of people are registered, a State in which there is no history of election fraud that we are aware of, unlike my own State.

So this is a very, very important amendment. This is an amendment that is about mandates. It is also an amendment that is about fraud. Because the only way to avoid the operation of this bill in your State, if you conclude it is very expensive, as the people of Maricopa County have already concluded, if they convince the Arizona State government that complying with this bill is too expensive, they have two options, I say to my friend from Oklahoma: Same day registration or no registration at all. And that, in many areas of our country, is a prescription for election day fraud.

So I commend my friend from Oklahoma. I think it is an outstanding amendment and I hope the Senate will accept it.

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

Mr. NICKLES. Will the Senator yield?

Ms. MOSELEY-BRAUN. Yes.

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

Mr. NICKLES. Mr. President, I have a commitment before the Budget Committee.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. NICKLES. I thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

I will be brief—the yeas and nays have been ordered—just to say, I know an unfunded mandate when I see one, and this is not an unfunded mandate in this bill.

In fact, if anything, the argument can be made that this legislation will save money in the longrun. It will certainly save money. It will cost some money in the shortrun, but over time and based on the cost estimates put out by the CBO attached to this bill, there will be cost savings to all the States.

The Congressional Budget Office has found that the annual direct cost of the bill is less than $20 million nationwide. That is in all 50 States.

I understand also that the CBO estimated that S. 460 will enable local election officials to save—to save, Mr. President—between $7 and $10 million in part-time employee costs that are now incurred to handle many registration rushes.

I also think it is important to note that the bill provides for approximately $4 million in annual savings by providing reduced postal rates for mail ins required by the bill.

I would go further to point out the cost savings that this bill will occasion, with regard to individuals who now have to make, in some States, repeated trips in order to exercise their right even to be recognized as eligible to vote, and that is what this bill really is about.

I heard a discussion about mandates on the States and there are "shalls" in this bill. Of course, there are "shalls" in this bill. That is what we are elected to do, to have standards, with regard to something as basic as the franchises, that are consistent across these United States.

There is no reason why one person should be more of a citizen in one State than he or she is in another State; to have easy access to the ballot in one State and barriers in another State.

This bill seeks to correct that and to expand the franchise, so that every American will have the most precious of rights that we enjoy, which is access to the ballot box without institutional artificial barriers blocking the way.

This is not a procost bill. It is not an unfunded mandate. This bill will provide for the American people to have access to the ballot box, the essence of our democracy. It is a pro-consumer, a pro-voter, a pro-people, a pro-State bill. And the State and local governments will save money in the longrun with a uniform, consistent program, as provided for in S. 460.

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

Ms. MOSELEY-BRAUN. Yes, I yield.

The PRESIDING OFFICER. The Senator yields.

The Chair recognizes the Senator from Kentucky.

Mr. McCONNELL. The distinguished junior Senator from Illinois cited the CBO study, the analysis of which, it is my recollection, is $20 million a year over 5 years, which would be $100 million.

So my question of the Senator from Illinois is: You indicated this was not an unfunded mandate, this bill was not an unfunded mandate, and the Senator from Illinois quoted the CBO study.

I am curious as to how the Senator from Illinois concludes this is not an unfunded mandate if CBO is saying the cost to the States would be roughly $20 million a year for each of the 5 years?

Ms. MOSELEY-BRAUN. Mr. President, I would point out that the issue of unfunded mandates is a broad issue. There are any number of mandates where we send administrative costs to the States that do not get paid for, where we send activities to the States or different sets of requirements to the State and local governments that do not get paid for.

The distinction that I made here, and that I make here, is that this bill pays for itself. This bill will effect cost savings for State and local governments and indeed for the voters who, again, will be spared the expense.

There are direct and indirect costs. And the point that I make this afternoon is that if you take the direct costs of this legislation and stack them up against the indirect costs that are presently being paid and will be paid—overtime, postal costs, part-time employees, the cost to the voters to go to make 2 and 3 and 4 registration trips or attempts—if you take those costs and put them up against this $20 million figure that CBO has come up with, what you wind up with is a net gain for the State and local governments.

So I say to you, because of that analyses, both direct and indirect costs have to be taken into account, as I suggest they should be, with regard to our actions here in general.

If you take that analysis, if you look at it in that way again, I have seen unfunded mandates. There are many of them. This is not an unfunded mandate in that regard.

Mr. McCONNELL. So the Senator from Illinois is not disputing the CBO figure that the cost to the States of this bill would be $100 million over 5 years. The Senator is stating, I gather, someplace off down the road they will recoup recruitment costs? Is that the argument?

Ms. MOSELEY-BRAUN. No, sir, that is not the argument. The argument is you cannot take one set of figures and not the others. You cannot take the $20 million and not take up the about $7 million that is going to be saved to the election officials, saved off the bat, not take the $10 million saved of part-time employees right off the bat, not take the savings to the voters, again who will be spared repeated attempts to register, right off the bat. You cannot talk about one set of figures and fail to talk about the other.

So, on balance, if you stack both sets of figures up next to each other, the direct and indirect costs, what happens here is that bill will, in the final analysis, result, I think, in a cost savings to State and local governments, a savings to the voters, and will at the same time expand the opportunities for participation in our great democracy.

The PRESIDING OFFICER. The Senator from Illinois has the floor. Does the Senator yield for a further question?

Ms. MOSELEY-BRAUN. I think the yeas have been called for. No?

The PRESIDING OFFICER. Will the Senator from Illinois yield the floor?

Ms. MOSELEY-BRAUN. I yield.

Mr. McCONNELL. I certainly was not trying to put words in the mouth of the distinguished Senator from Illinois. I was just trying to find out whether the Senator from Illinois felt the CBO study was simply inaccurate?

Ms. MOSELEY-BRAUN. No, sir.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, no, I did not so suggest. On the contrary. I am taking—arguendo, I am taking the CBO figures as accurate figures and I am using those figures as a starting point. But, again, I say to the junior Senator from Kentucky, and to the other Members of this body, that you cannot take one set of figures in isolation, that you have to look at direct costs on both sides of the equation. You have to look at indirect costs as well. And as you look at costs in the broader sense, as you look at the savings, you have to balance expenditures with savings. A penny saved is a penny earned, and if you take the pennies saved here, what you wind up with is a net gain for the American people as well as for State and local governments. And that is the point that I am making, sir.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Kentucky.

Mr. McCONNELL. Mr. President, it is an interesting argument, I suppose. We can all speculate about whether this is an unfunded mandate. As Senator

MCCAIN pointed out in offering his amendment earlier this afternoon, in one county in Arizona, Maricopa County, the people who would have to comply with the bill and who would have to, presumably, deal with the vendors who would sell them whatever equipment they think they need, that one county thinks it would cost them $900,000. CBO believes it will cost $20 million a year for each of 5 years, which adds up to $100 million.

I suppose all of us can differ on whether this is an unfunded mandate. But it seems to this Senator at least, having taken a look at the studies that have been made available to us, that it is very difficult to argue that this is not a bill that is going to cause a number of States and localities to incur considerable expense.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Kentucky.

Mr. FORD. Mr. President, I think it is time we vote on this amendment. You can use CBO figures or quote David Broder taking paragraphs out of his article. If you do that reading the whole article, you might get a different picture.

Under this CBO estimate that my distinguished colleague from Illinois argues about so eloquently, I might say, she adds in the possible $10 million, which reduces it in half, and then the indirect savings and those sorts of things.

Mr. MCCONNELL. The Republican leader wants to speak on this amendment. Both Senators from New Hampshire want to speak on this amendment, and they are on the floor prepared to speak.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Kentucky.

Mr. FORD. I am not trying to hold the bill up. Senators from both sides who would like to vote, I understand are at a meeting. I was just trying to expedite it. I do not want to cut anybody off. I am very pleased. I just hope we do not start getting amendments in the second degree and all these other things around here that could be done. I would like to have an up-or-down vote and move on if we could.

I will be glad to yield the floor.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of this amendment. There has been a lot of discussion so far about whether this is a mandate. We have a saying, if it walks like a duck, sounds like a duck, looks like a duck, it must be a duck. This is not only a duck, it is an unfunded mandate on the States, and it is an unfunded mandate on the communities and on the towns. Look at what it asks people to do and you recognize fairly quickly it is asking people to do things which are going to cost money. But it is not paying for it. That is an unfunded mandate. When one level of government says to another level of government, you shall do this, and that "this" costs money to do, but does not send any money to do it, that is an unfunded mandate.

The Secretary of State of New Hampshire, who has been Secretary of State of New Hampshire ever since I can remember, I think it has been about 20 years now, who also happens to be a very honorable gentleman of the other party—which is rare in New Hampshire—has said this is an unfunded mandate. And he is a person of great honor. In fact, he even puts a dollar figure on it. He said it is an unfunded mandate that is going to cost tens of thousands of dollars to the communities of New Hampshire.

At some point this has to stop. At some point this legislative body and this Congress has to stop passing policy which it deems to be appropriate but not being willing to pay the bills for that policy. It is just not right, it is not fair, it is not appropriate to the other levels of government because it takes the budgets of those governments, whether they are States or local communities or towns, and it skews those budgets because the State and the town and the county has to adjust their budget to pay for a policy, which they did not put in place, with their tax revenue base.

If the policy is so darned good—and in this case I do not think it is a good policy—but if the body as a majority decides this policy is so darned good, then this body has an obligation to pay for it and not to pass those costs down.

This amendment does not undermine this bill. This amendment makes this legislation legitimate, because what it says is, if this is good enough policy for us as a Senate to pass, then it ought to be good enough policy for us as a Senate to pay for. That is the issue. This is an unfunded mandate. Without this amendment it becomes a cost to the States, local communities, and to the counties which is not reimbursed and which is, therefore, not fair. And this amendment remedies that problem. Therefore, it is a good amendment, and I hope the Senate will support it.

I yield my time.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Kentucky.

Mr. MCCONNELL. On the question of what is a mandate, which we have been discussing here on the floor of the Senate, again reading from the statement of my friend and colleague from Illinois, who I see is here on the floor, her statement today with regard to the legislation that she introduced this morning, she says, "For purposes of the CBO analysis, a Federal mandate is a provision in a reported or enacted bill that"—and I am quoting my friend from Illinois—"requires the creation or expansion of a State and/or local service or activity." I believe clearly this bill does that. "Second, requires standards different from existing State and/or local law or practice or in conducting an activity." Certainly that would be the case with this legislation as it applies to some States. "Third, creates additional personnel or other administrative costs for State and/or local governments." That is what we are arguing about, as to whether or not that standard would be met. "Or requires contracting procedures different from or in addition to those required under existing State and/or local law."

So it seems to this Senator—again, these are the words of the Senator from Illinois—but it seems at least the four requirements in the Senator's much-needed legislation that she introduced today are met by this particular measure. And I wonder why the Senator from Illinois does not feel that this meets the very standard of the legislation that the Senator from Illinois introduced just this morning.

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

Ms. MOSELEY-BRAUN. Mr. President, I do not have my speech this morning with me, but I remember—and will check the RECORD—I also said in that statement, in introducing that legislation—I am glad you liked the bill—said in that legislation that not all mandates are inappropriate. And, quite frankly, if you just want to take a really broad view of what a mandate is—I mean, the Constitution of the United States is a mandate. The Ten Commandments is a mandate. There are all kinds of mandates. The question is, are we here to do our job, which is to provide for access to the polls by the American people?

To take it one step further—and I ask ordinary citizens just to take out your calculator, to look at whether or not this is unfunded. I think this was the point I was making. Not so much it was not mandated. Of course, we are going to try to make uniform among the States the fundamental citizen's right of access to the polls. That is our job. That is what we are supposed to do, and that is what this bill seeks to do, to give people equal access; whether they live in Virginia, Arkansas, Arizona, Illinois, Kentucky, or wherever, to let people have access to the precious franchise that is a fundamental right in this democracy.

But just to go through the numbers again, to explain what I referred to when I talked about savings, and taking all of the costs that are involved here and looking at the CBO numbers, which I believe to be accurate, the CBO talks about a $20 million cost annually. So put that in one column. Then we will construct another column. The CBO also then says that this bill could

save between $7 and $10 million in direct costs to election officials in a year. So on the saving side, we have $10 million in an election year.

Then they go on to say that it can save an additional $4 million in postage costs. That is in nonelection years. But we will take the $4 million and be conservative about it. So we are now up to $14 million annually saved against our $20 million in costs.

Then we go further, and the CBO has an estimate coming out of Kentucky—your State, sir—that says the Kentucky officials were able to save $800,000 in a year using this system. So you add that. So now are almost to $15 million versus the $20 million on an annual basis.

And then we add to that—and this is the point that I made earlier, or attempted to make—you add to that the indirect costs, the indirect costs associated with a system that is not uniform, with a system that does not provide easy access. And you begin to calculate the costs in time, energy, expense—postage costs and the like—that are borne by the voters, by the American people, in just becoming eligible to exercise the franchise, when you add the indirect costs with the direct costs, I submit to you, sir, and I submit to the other Members of this Chamber that what you have is not an unfunded mandate at all.

As I said earlier in my statement, I know an unfunded mandate when I see one, and this is not an unfunded mandate. This is a change that will do several things. It will expand the franchise, and it will have a cost associated in the short run. But over the long run, it is not only cost effective but it is a positive contribution by State and local governments to expanding the franchise.

I go back and say, again, everything we do is a mandate in one form or another. The question is, are we pushing costs unfairly to the States, and are we failing to tell them what those costs are? I submit to you and I submit to the Members of this body that this legislation does neither. This is a fair procedure; this is a sensible procedure; this makes for a uniform standard nationwide. And we have gone—the sponsor of this legislation, the senior Senator from your State, has gone to great lengths to talk to State and local governments about what they can expect in terms of costs.

Disclosure is the key with regard to any activity that we do here, funded or unfunded. Disclosure is the key. This legislation has the disclosure associated with it. It is very straightforward. There are no hidden agendas here.

We do not know whether this bill will increase turnout. We do not know if the people who come to the polls will be Republicans or Democrats or Independents or Peronistas, or whatever. We do not know that. But what we do know is that this legislation will give the American people an opportunity to access the right to vote without the institutional barriers that exist in all too many States. And, in that regard, it is consistent. It is absolutely consistent with our constitutional charge, with our mandate to serve the interests of the American people and to make this democracy viable.

Mr. MCCONNELL. If the Senator will yield for one final question, if I correctly understand the Senator from Illinois that there is little or no cost associated with this legislation—am I correctly interpreting what the Senator from Illinois has just related to the Senate; that it is her view that when you balance the savings versus the expenditures, there is little or no cost involved in this legislation? Is that the essential point of the Senator from Illinois?

Ms. MOSELEY-BRAUN. I think even your question kind of misstates what I have been saying.

Mr. MCCONNELL. I am trying not to misstate. That is why I ask the Senator.

Ms. MOSELEY-BRAUN. Let me say what we say at home: Let me "'splain" it to you. If you take all of the costs involved here, what we have is a net benefit as opposed to a net burden to State and local governments, as well as to the voters and the American people.

Mr. MCCONNELL addressed the Chair.

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

Mr. MCCONNELL. I ask unanimous consent I be added as an original cosponsor of the measure the Senator from Illinois introduced this morning on the subject of unfunded mandates.

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

Mr. MCCONNELL. Mr. President, it seems to me that if CBO is right and if there is very little cost, that is a stronger argument for the Nickles amendment. If it does not cost much, why should we not pick up the tab? We never hesitate to pass mandates that cost the States huge amounts of money. And if the proponents of this legislation are indeed correct that it is going to cost little or nothing, or actually even be a savings, then what harm in adopting the amendment that is being discussed at this very moment? And if, per chance, there is some cost, and those who think this is going to be a savings are incorrect, at least for once, at this level of Government, we can do the right thing, which is to pick up the costs for legislation that we are about to pass.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, when I first started to speak on this legislation and on the unfunded mandate issue that this amendment attempts to raise, I think even then I said that all this was was another dilatory tactic to try to create another burden, another barrier against the final passage of the underlying legislation; that all this was was another stalling job to try to delay our opportunity to vote on the underlying bill.

If the junior Senator from Kentucky would like to fund whatever costs he sees that I do not see coming out of motor-voter, then I think the appropriate thing is not to try to stop this bill and muddy up the waters. This bill has been talked about and debated. We had to go to cloture, and we have been debating it longer than anything I heard since I have been here, Mr. President.

I think the appropriate move would be for the junior Senator to file his own bill. If he wants to fund voter registration activities, we can take up the voter registration activities for all the States and pay for the whole kit and caboodle, and not have local governments pay for any of it. And we can do it on your legislation. And I would have to take a look at that bill, sir.

All I am saying, Mr. President, is we are entitled to have a vote on S. 460. This legislation has been around. This legislation is good legislation. It is well thought out. It has been crafted in a way everybody knows what is in this bill, and everybody also knows the series of amendments are simply dilatory and designed to keep us from having the opportunity of voting on the legislation as it is written.

I encourage the Senator to, if he will, cut to the chase and allow us to have a debate on the legislation so that we can resolve the issue of whether or not the American people have an opportunity to have consistent registration procedures across this country.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The senior Senator from New Hampshire.

Mr. SMITH. Does the leader wish to take the floor at this time?

Mr. DOLE. No.

Mr. SMITH. I ask unanimous consent my colleague, Senator GREGG, be added as a cosponsor to this amendment.

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

Mr. SMITH. Mr. President, I might also say to the Senator from Illinois before she leaves the floor, there will be a time when she will be out trying to delay a bill that she does not like, and I think it is part of the process. It is, in this case, very justified.

I do not in any way question the motives of my senior colleague from Kentucky; he knows that. He believes in this legislation. But the bottom line is it is not good legislation. It is a mandate. It is an unfunded mandate.

I rise in strong support of the Nickles amendment. Seldom, frankly, is the Senate faced with legislation which in

my opinion is as foolish on its face as this one, Senate bill 460, because this legislation mandates—and I know it has been said before and I will quote again—"each State shall designate as voter registration agencies all offices in the State that provide public assistance, unemployment compensation, or related services; and all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities."

There is no discretion here. If a person or organization is an office—what is it, is it a person or an organization? What is an office? But if it is, and he or it provides services related to public assistance, he or it must be covered under the provisions of this act, pure and simple. S. 460 does not define the term office. It does not, for example, specify whether this section applies only to State offices or also corporate offices and charitable organizations which provide services related to public assistance. But reading it in the context of paragraph (3)(B), it is clear that the term office must include private as well as State facilities.

Paragraph (3)(B) also states that "Voter registration agencies may include local government offices and nongovernmental offices." So it is clear that the term office encompasses all corporations, charitable organizations, local government offices, and other organizations and private individuals which have the requisite relationship to the provision of public services.

This is a lawyer's delight, Mr. President. We can all have different kinds of interpretations on this bill. This will be a lot of fun.

And it is going to cost a ton of money. Every charitable organization in New Hampshire, for example, could be required to become a voter registration agency. Every group home, mental health facility, counselor, or job referral service for the State of New Hampshire, every grocery store that accepts food stamps, every retirement home that cashes Social Security checks, all of these are now going to be voter registration facilities.

What is this going to involve? How many employees are these people going to have to hire to do this? Each of these persons or organizations could be required to distribute mail registration materials, provide assistance to applicants, and to submit completed voter registration materials, presumably at their own expense and legal risk, I might add. Any organization which refuses to do so runs the considerable legal risk of suit under section 11 for monetary damages, punitive damages, and legal fees.

And second, if the organization provides assistance to a physically, mentally, or emotionally handicapped person in the person's home, it would be required to provide in-home voter registration.

Third, the person or organization providing the social services is explicitly prohibited from "making any statement to an applicant or taking any action, the purpose or effect of, which is, to discourage the applicant from registering to vote."

Thus, an inadvertent statement from an untrained social worker could put the organization in violation of the law.

Mr. President, this is just not good legislation.

An organization or person designated as a voter registration agency under this act would be required to "distribute a mail voter registration form with each application for such service or assistance and with each recertification, renewal, or change of address."

Thus, if an individual is required to reapply for a particular service daily, the individual would have to be daily provided with mail registration materials, however useless, redundant or expensive.

Fifth, section 7 provides that "no information relating to a declination to register to vote may be used for any purpose." Presumably the term any—and I am just presuming here; your guess is just as good as mine—includes, for example, use as evidence in a criminal trial. Why not. What utility this provision would have for anyone other than a person acting unlawfully is an unanswered question.

And finally, in section 7 it requires that completed applications be forwarded with fixed transmission deadlines, but fails to give any guidance on what happens if the agency fails to comply. Can stores selling hunting licenses, for example, now be sued for punitive damages? Is that possible? Does this provision, coupled with section 11, remove immunity from State and Federal agencies currently protected from a suit? Nobody knows that.

We do have some idea of the cost of all of this. According to one study, costs for approximately 10 States alone would be $100 million. Estimates run from $200 to $500 million—money all over the place—excluding the self-interested projections by Democratic officeholders in the United States. The President of the United States is against unfunded mandates and here we are with his party giving us some more of it.

Mr. President, if the Federal Government wants States to engage in these foolish and self-defeating requirements, it ought to be prepared to pay for them. And if there is no cost, then what is wrong with the amendment. If it is not going to cost anything, the amendment is good. The amendment would achieve this result by suspending the effectiveness of this act until a mechanism is found for compensating the States for their costs. That is why this amendment is a good amendment.

The Secretary of State of the State of New Hampshire, William Gardner, as my colleague, Senator GREGG has already mentioned, is a Democrat, by the way, not that it is of relevance here, but he sent a statement to me recently in which he outlines very clearly what the costs are to our State, to our small State.

H.R. 460, a bill to establish national voter registration procedures for Federal elections does not appear to have provisions as written which would be of benefit to the State of New Hampshire.

At present New Hampshire has a system of local voter registration except, for handicapped or out of town/overseas citizens, registration is taken and proof of residency and citizenship is given in person to town or city clerks or to supervisors of the checklist in each voting jurisdiction. Voters may be registered up to 10 days before any election. Local officials thus determine the qualifications of voters and must so state so on the checklist.

Mr. Gardner also says that:

H.R. 460 alleges to make it easier for eligible voters to be registered. While the aim of registering more voters may be achieved, passage of this act does not mean that voter participation will be increased.

You cannot force a person to vote.

And will require the expenditure of large amounts of tax dollars to benefit few.

Also, Mr. Gardner says:

The most recent study shows a greater increase in voter turnout in New Hampshire than in States with motor-voter registration.

Yet we are being punished under this act.

The voter turnout increase from the 1988 to the 1992 Presidential election in New Hampshire was 9 percent while the average increase in motor-voter States from 1988 to 1992 was 6.6 percent. The widely fluctuating turnout in individual States shows that voter registration procedures is only one factor in influencing whether people will actually vote.

New Hampshire, for instance, which has sometimes been criticized for its voter registration process, registered 90,000 new voters for the 1992 Federal election, achieving a total registration percentage of 80 percent for the current voting age population. The 1992 voter turnout was 64 percent, higher than that of several of the motor-voter States which averaged a 60.1 percent turnout. In fact, New Hampshire at 55 percent had a higher percentage even in 1988 than did the motor-voter States with an average of 53.5 percent.

In addition, the cost of implementing H.R. 460 appears to be prohibitive for our small State. Pursuant to this legislation, any place of motor vehicle registration, or any office providing assistance. * * *

And on and on and on in terms of the facilities that are provided.

Secretary Gardner has worked in this position for a long time, all the years that I have been in politics. He knows the State and he knows it well. He knows the registration process. Secretary Gardner says:

Other provisions of H.R. 460 are also troublesome. All agencies newly responsible for sending completed forms to the State election offices would have 10 days to do so, up until 5 days before the cut-off date of reg-

istering, then the forms must be sent in 5 days. The Federal cut-off date allows 30 days before an election, while ours is 10 days before an election. If the State of New Hampshire stays with the present dates of registration, some voters will not be placed on the checklist in time, while others may find they are judged ineligible too close to the election to rectify their voting status.

This will cause unbelievable confusion and chaos in our State, which does a good job in getting voters registered and turned out to vote.

If our State does conform to the 30-day limitation, voters who currently have 20 extra days to register will also lose this opportunity to be registered close to an election.

First-time voters who registered by mail, if 460 is approved, are required to vote in person under the provisions of this law. To prove their qualifications, they could lose the right to vote by an absentee ballot. Since this is a right constitutionally guaranteed to New Hampshire citizens, this would also necessitate a change in our State constitution.

How do we fund that? It is going to be funded by the people of New Hampshire with another mandate. That is how.

The office of the Secretary of State of New Hampshire has grave concerns about the passage of H.R. 2 in its present form because of the before-mentioned reasons.

Mr. Gardner also says:

There is no firm evidence that increasing voter registration by such means as motor-voter registration will automatically increase voter turnout. Local control which appears to be working well—

I remind my colleagues in this Chamber, local control appears to be working well out there, contrary to what may be on your agendas. It does work. That is what the thrust of our Constitution was.

Local control which does appear to be working well in its present form in New Hampshire, is going to be overruled by this legislation.

Another layer of bureaucracy through the cumbersome system of State control and notifications as described in this bill would be imposed to supplant our present procedures.

Confusion and lines at the polling place as certain new voters verify their qualifications could actually discourage voters and lower the voter turnout.

Voters may also be required to register 30 days before an election rather than 10, thus losing the ability to register close to an election.

Why do you not let us register our voters in New Hampshire? Let us do it. We have a higher turnout than most of you, my colleagues.

Most troublesome is the potentially excessive cost required to benefit very few in this particular state. At a time when New Hampshire is struggling to fund social services, the expenditure of tax dollars to make it more convenient for only 20% of the population to register is not a high priority.

Registration to vote is a privilege. You ought to exercise it. You ought to go out and register because you want to, because it is the right thing to do. That is your responsibility as a citizen. Exercise it.

The Secretary of State's Office has been committed to eliminating past barriers to voting and feels strongly that the rights of all eligible persons to vote should be guaranteed, it also assumes that these same persons will take some responsibility as citizens, as President Clinton asked for in his inaugural address.

Take some responsibility, he says. Most importantly, take responsibility to vote and do not ask somebody else to take the responsibility for you.

Expecting non-handicapped persons who reside in their jurisdictions to appear in person to register to vote as the present local system requires is not only a less expensive procedure than that mandated by H.R. 2, but it will also help prevent election fraud. It does not, our opinion, constitute an undue burden on eligible voters.

In fact * * * the legislation will cause a decrease in voter turnout in New Hampshire because new voters will be required to prove eligibility at the polls rather than prior to election day. Lines could develop, which will discourage voters from waiting to cast their votes.

Madam President, I ask unanimous consent that the entire statement of Mr. Gardner, the secretary of state of New Hampshire, be printed in the RECORD at this time.

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

STATEMENT OF THE SECRETARY OF STATE FOR THE STATE OF NEW HAMPSHIRE CONCERNING THE NATIONAL VOTER REGISTRATION ACT

H.R. 460, a bill to establish national voter registration procedures for federal elections, does not appear to have provisions as written which would be of benefit to the State of New Hampshire.

At present, New Hampshire has a system of local voter registration. Except for handicapped or out of town/overseas citizens, registration is taken and proof of residency and citizenship is given in person to town or city clerks or to supervisors of the checklist in each voting jurisdiction. Voters may be registered up to 10 days before any election. Local officials thus determine the qualifications of voters and must so state on the checklist.

H.R. 460 alleges to make it easier for all eligible voters to be registered. While the aim of registering more voters may be achieved, passage of this act does not necessarily mean that voter participation will be increased and will require the expenditure of large amounts of tax dollars to benefit few.

The most recent study shows a greater increase in voter turnout in New Hampshire than in states with motor-voter registration. The voter turnout increase from the 1988 to the 1992 Presidential Election in New Hampshire was 9% while the average increase in motor-voter states from 1988 to 1992 was 6.6%. The widely fluctuating turnout in individual states shows that voter registration procedures is only one factor in influencing whether people will actually vote. New Hampshire, for instance, which has been sometimes criticized for its voter registration process, registered 90,000 new voters for the 1992 federal election, achieving a total registration percentage of 80% for the current voting age population. The 1992 voter turnout was 64%, higher than that of several motor-voter states, which averaged a 60.1% voter turnout. In fact, New Hampshire, at 55%, had a higher percentage of voter turnout even in 1988 than did the motor-voter states with an average of 53.5%.

In addition, the cost of implementing H.R. 460 appears to be prohibitive for our small state. Pursuant to this legislation, any place of motor vehicle registration, or any office providing public assistance such as welfare offices, vocational rehabilitation offices, or unemployment offices shall provide voter registration forms to all applicants for driver's licenses or assistance. Potential voters could apply anywhere in the state. Any completed forms would be sent by these offices or by the registrants by mail to state election officials. The official would determine the eligibility of the applicants and would notify the applicants as to their placement on the checklist. Not only would these agency offices supplant the local officials in the registration function, the cost of this new mandate to New Hampshire state and local government for materials, mailings, and manpower would be in the tens of thousands of dollars per year. The cost of printing and distributing the forms would also be borne by the state. Local Offices could bear the cost of notifying the applicants of the disposition of their applications.

Other provisions of H.R. 460 are also troublesome. All agencies newly responsible for sending completed forms to the state election offices would have 10 days to do so, up until 5 days before the cut-off date of registering, then the forms must be sent in 5 days. The federal cut-off date allows thirty days before an election, while ours is ten days before an election. If the State of New Hampshire stays with the present dates of registration, some voters will not be placed on the checklist in time, while others may find they are judged ineligible too close to the election to rectify their voting status.

If our state does conform to the 30 day limitation, voters who currently have 20 extra days to register will also lose this opportunity to be registered close to an election.

In addition, H.R. 460 relates to federal elections. In New Hampshire, the question arises as to whether two checklists, one for local, county and state elections and one for federal elections, may be maintained. Supervisors may also object to the addition of federal election applicants too close to an election for verification by them in regards to an applicants' place of residence. Concern for voter fraud could even lead to the rejection of eligible applicants. Chaos would reign at the polling place if in fact voters were responsible for registering under two systems for two checklists.

New voters who register by mail are required to be responsible for verifying their eligibility at the polls. The possible results of confusion, lines, and frustration at the polls could even serve to discourage voter participation.

In addition, first-time voters registered by mail, if required to vote in person under the provisions of H.R. 460 to prove their qualifications, could lose the right to vote by absentee ballot. Since this is a right constitutionally guaranteed to all our New Hampshire citizens, this would also necessitate a change in our state constitution.

The office of the secretary of state of New Hampshire has grave concerns about the passage of H.R. 460 in its present form because of the before-mentioned reasons.

There is no firm evidence that increasing voter registration by such means as motor-

voter registration will automatically increase voter turnout. Local control which appears to be working well in its present form in New Hampshire would be overruled.

Another layer of bureaucracy through the cumbersome system of state control and notifications as described in this bill would be imposed to supplant our present procedures.

Confusion and lines at the polling place as certain new voters verify their qualifications could actually discourage voters and lower the voter turnout.

Voters may also be required to register 30 days before an election rather than 10, thus losing the ability to register close to an election.

Most troublesome is the potentially excessive cost required to benefit very few in this particular state. At a time when New Hampshire is struggling to fund social services, the expenditure of tax dollars to make it more convenient for only 20% of the population to register is not a high priority.

The Secretary of State's Office has been committed to eliminating past barriers to voting and feels strongly that the rights of all eligible persons to vote should be guaranteed, it also assumes that these same persons will take some responsibility as citizens, as President Clinton asked for in his inaugural address.

This bill attempts to describe those voting age citizens who haven't taken the time to register to vote as victims of a system which has deliberately attempted to make it difficult for them to vote. We, on the other hand, would ask, why should the 80% of the eligible voters in New Hampshire who have made the effort to register spend their tax dollars on the 20% who have not done so, especially when in our depressed economy we have so many other serious needs?

Expecting non-handicapped persons who reside in their jurisdictions to appear in person to register to vote as the present local system requires is not only a less expensive procedure than that mandated by H.R. 2, but it will also help prevent election fraud. It does not, our opinion, constitute an undue burden on eligible voters.

In conclusion, the cost of this legislation not only outweighs the benefits to New Hampshire, but there is also no guarantee that voter participation will be increased in this state once this new federal mandate is in place.

In fact, it is my opinion that the legislation will cause a decrease in voter turnout in New Hampshire because new voters will be required to prove eligibility at the polls rather than prior to election day. Lines could develop, which will discourage voters from waiting to cast their votes.

Mr. SMITH. Madam President, in conclusion I would like to compliment my colleague from Oklahoma for an amendment which goes right to the heart of not only the issue here at hand, but frankly at the heart of the differences between our two political parties. I commend the Senator for an amendment that is common sense. That is probably the reason it will go down because it is common sense.

But I hope that my colleagues will reflect carefully upon what this amendment is going to do across this Nation. It is going to cause chaos in an area that should be a privilege. That chaos is going to be all kinds of restrictions and requirements and mandates and confusion that is just going to cause absolute utter chaos.

I commend my colleague. I am privileged to join him, and say again that this goes to the heart and soul of the differences between the two political parties.

I thought when the President asked for a removal of mandates and asked for more responsibility on the part of our citizens that the ladies and gentleman in his party and in this body might support him. Apparently that is not the case.

I yield to my colleague.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I wish to thank my colleague, Senator SMITH, for an outstanding statement. I hope my colleagues had a chance to hear his statement. I hope that they will respond and vote in favor of this amendment so we do not have the additional expensive unfunded mandates on the States.

I wish to compliment him for his statement. I think it said it all. I hope that our colleagues will respond accordingly.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Madam President, I want first to commend my colleague from Oklahoma for offering the amendment, and as he indicated, Senator SMITH and others have spoken on the amendment.

Madam President, during the past several days, I have heard my colleagues explain how wonderful and important this bill is to our democracy.

I have heard them say that this legislation will make it easier for millions of Americans to vote.

I have heard about all the terrible burdens imposed by States, making access to the ballot more difficult.

Well, if all this is true, if this bill is so important, why does not Congress put its money where its collective mouth is, and pay for the bill's mandates?

Apparently, Congress is ready, willing, and able to bask in all the hype, but is a deadbeat when it comes time to pay the bill.

Ten States, including my State of Kansas, have estimated that complying with this bill's requirements will cost more than $87 million.

The total cost of all 50 States would obviously be much higher.

I would ask my colleagues on the other side of the aisle: How do we expect the States to pay for this legislation?

Should they cut their education budgets? Their child nutrition programs? Or should they just raise taxes?

Take the case of cash-poor New Jersey, which has recently slashed the budget of its election law enforcement commission, the government agency charged with monitoring State campaign activities.

Because of State spending cutbacks, the commission has lost a third of its staff and 42 percent of its budget since 1989.

And now, Congress wants to tell New Jersey, "Reform your voter registration procedures, comply with our mandates, but do not come to us with the bill."

Mr. President, this amendment attempts to restore some accountability by forcing Congress to pick up the motor-voter tab.

It would allow each State to estimate the additional costs associated with the motor-voter requirements and to submit this estimate to the Senate Rules Committee and the House Administration Committee.

The amendment would then delay the effective date of these requirements until Congress appropriates funds to defray these additional costs.

If Congress determines that a State has overestimated its costs, then Congress can make the necessary adjustment and appropriate a lesser amount.

Simple. Responsible. No gimmicks.

This amendment is not partisan. It is not a Republican amendment or a Democrat amendment.

Quite simply, this amendment should be supported by anyone concerned about Congress' credit card mentality.

Earlier this year, Congress passed a family leave bill that will cost businesses hundreds of millions of dollars.

Last week, the Senate passed an unemployment compensation bill raising the deficit by $5.8 billion but did not offer a single way to finance this new debt.

And now we have the motor-voter mandate.

We seem to think we can come up with any idea, no matter how expensive, and just charge it—charge it to business, charge it to future generations, and with this bill, charge it to the States and localities.

Mr. President, last June, then-candidate Bill Clinton told the U.S. Conference of Mayors that "I am going to stop handing down mandates to you and regulating you to death."

These words were warmly received, and it is no wonder.

State and local officials throughout America understand what it means when Washington calls.

It means added expense, added regulation, and more mandates—so think twice before you pick up the phone.

Perhaps that is why the National Governors Association, the National Association of Counties, the National Association of Towns and Townships, and the National League of Cities have all registered their opposition to this bill.

Earlier this afternoon, my distinguished colleague from Illinois, Senator MOSELEY-BRAUN, came to the floor and spoke very eloquently.

She introduced a bill requiring the Congressional Budget office to estimate the cost to State and local gov-

ernments of complying with any new Federal mandate that Congress may propose.

My colleague's words were so important, and so relevant to this debate, that I would like to repeat them here:

State and local officials believe their budgets are unduly pressured because the Federal Government has pushed additional requirements on the State and local governments, without the funding necessary to cover the additional costs. Given the level of concern among State and local government officials, I expected to arrive in Washington to find that the Government was addressing the issue. Instead, to my great surprise, most of the Federal establishment appears to be totally unaware of the impact that Federal mandates have on State and local governments. In fact, I was surprised to find that the situation is even worse than that. There is almost a total absence of information on the mandates issue, and much of the Government does not even know what a mandate is.

Well, Mr. President, I will tell you what a mandate is—this bill is a mandate.

Congress mandates, and the States are forced to pay.

Although I have not had an opportunity to review the details of my colleague's proposal, I will seriously consider adding my name as a cosponsor. And I hope that she, with her unique experience as a former State official, will consider supporting this amendment as well.

Mr. President, I have heard from many State and local officials who are making voter registration easier, and who just do not need any more unfunded help from the Federal Government.

For once, I urge my colleagues to listen to those who will have to live with—and, yes, pay for—what we in the imperial Congress seek to mandate.

My colleagues can begin this listening process by supporting this amendment.

We offered a similar amendment on family leave. I suppose people wanted a mandate. It was not a mandate. This is a mandate. It is not going to change because somebody said it is not a mandate. It will cost somebody some money. It will cost my State and other States $87 million over the next few years. That is real money.

It seems to me that if everybody says it does not cost anything, why not pass the amendment anyway? I think that is the point the Senators from Oklahoma and New Hampshire made. If it is not expensive, why worry about it? We will come up with some dollars if that is all it is going to cost. The CBO indicates from $20 to $100 million over 5 years.

I want to say I went to a Governors' meeting as leader on the Republican side. I talked to the Democrats and Republicans. They said, no more mandates. That was their message. I went to speak to the county officials—no more mandates. That was their message. I mentioned motor-voter was a mandate. I got a big round of applause. At least they think it is a mandate. They are the ones out there dealing with it. We are not.

Then I spoke to the city officials. They are in town this week—no more mandates, including motor-voter.

But we know what is best for everybody. That is part of the problem. We are going to pass it whether you like it or not. We do not care if you are a county commissioner, Governor, or a city official. We know what is best. This is the Federal Government speaking direct from Washington. We can tell you what you have to do.

I thought people voted for change last November. They are tired of all of these mandates. It is like a tax on their business. It is an additional expense for taxpayers. The State has to pay it. The taxpayers are going to have to pay it. My Governor is a Democrat. This is a mandate to her. I think her judgment is pretty good.

So if this is not a mandate, then I have missed something along the way.

Take the case of cash-poor New Jersey which has recently slashed the budget of its election law enforcement commission, the government agency charged with monitoring State campaign activities. Because of State spending cutbacks, the commission has lost a third of its staff and 42 percent of its budget since 1989.

Now Congress wants to tell New Jersey, "Reform your voter registration procedures, comply with our mandates, but do not come to us with a bill."

We are so good at this. We practice it. We know how to do it. It is an art form. All of the things we tell people they have to do, we are not going to pay you for it. You are on your own. We know what is best because we get elected to think up these great ideas, to put more burdens on the taxpayers and more burdens on county, State, and city officials.

All this amendment does is try to restore some accountability. A lot of people talk about accountability. I spoke to a group of newspaper people. They said, "When are you people going to start passing those silly things such as a study about people snoring? A million dollars for this, a million dollars for that."

I said, well I am not very encouraged because we have got a bill on the floor right now that is going to cost who knows how much. We know it is good for you or we would not be doing it. We have made that judgment that it is good for you. So it may be good for some.

Certainly we want people to register and vote. But I tend to agree with the Senator from New Hampshire. Voting is a privilege. At least they ought to be able to register to vote. We do not need the Federal Government, in my view, telling us everything.

This is a simple, responsible amendment—no gimmicks. It is not a partisan amendment.

As I said, I talked to Democrats, Republicans, county commissioners, Governors, city officials, and they do not want any more mandates unless we send the money. So we just say in this amendment we will send the money before the law is implemented.

I am encouraged by the words this morning of the current Presiding Officer. We ought to get the cost of all of these mandates, find how much it costs. Maybe this is not a mandate. I read it that way. The Presiding Officer does not, and I do not want to quarrel with that. I do not want to suggest we have been on this bill too long. This is not gridlock. This is an effort to let the American people know what is in this legislation. We might be here next week this time, and maybe the next week at this time on this particular legislation. I think it is important that we make a stand now, based on what the Governors, the county officials, and the city officials are saying, that we are serious, and we hear them, and we are not going to give them anymore mandates unless we fund them.

I suggest that the Senator from Oklahoma is on the right track. It seems to me that we have an opportunity here to strike a blow for responsibility. There is not a precedent for it, but this is an opportunity. It does not come along every day around here. This is one vote that will not hurt this bill at all. It says we are going to pay for it. It will probably pass eventually and we can say we paid for it. We can write our city and county officials and say: I heard you; I did not like the bill, but we paid for it. I think it is a step in the right direction.

We have motor-voter in Kansas. It has not been implemented yet. We are waiting to see what happens to this legislation. I thank the Senator from Oklahoma and the others who spoke on this. I understand the Senator from Wyoming wishes to speak. We are offering germane amendments. This is an important issue, and we hope we can reconcile our differences, so a lot of people can vote for this bill on a bipartisan basis. That may or may not happen. We think there is a possibility it could happen.

Again, this is a very important amendment. This is very simple and straightforward. It is one that ought to pass by a voice vote. Maybe we can get a voice vote on this and save a rollcall. If not, it ought to be unanimous on a rollcall vote.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Madam President, I will not be long, but I was distracted by the debate on the floor which claimed that a bill which says "States shall," is not a mandate. I was distracted by the concept that the Attorney General would bring an action and seek injunction relief is not a mandate.

Most Americans are intimidated by the idea of having the Attorney General of the United States—and as of today we have one—saying that the State must do this. I have a letter here from the Secretary of State of Wyoming, of the party of the distinguished occupant of the chair. I think she may know our secretary of state, Kathy Carpin. She has written me, called me, and written again. There is a personal P.S. on this letter. So it is not just something ginned up out of the office to go ahead and be routine.

"Dear Malcolm, I am enclosing additional fuel for the fire with respect to the Federal voter registration legislation." She goes on to say how much it would cost. And then, in a penned postscript, she said: "More than the budget is at issue. Think of the potential for abuse when an agency conferring a benefit registers voters."

That is not my party, Madam President, and friends on the left. That is not my party, my friends who seek to impose government at every level, every step, and every walk of life in America. The amount of $100 million may not seem like much of a mandate to our friends on the left. We are not into the billions yet, so it is probably sort of unrecognizable as being real money; it just does not matter. But some of our States and some of our communities suffer a bit, because this Congress sends out its laundry and expects it to come back clean. It simply will not pay heed to the cries from the folks at home about, "for heavens sake, if you insist on America doing this, then pay for it."

More and more often, Washington tells us, Washington orders us, Washington compels us, Washington sues us, Washington brings injunctions against us, but this is not a mandate.

This is America. There was a time when all of us going to school used to think that Government was the servant of the people. And more and more, our friends on the left are suggesting that the people are the servants of the Government.

More and more often, we just discard whatever counsel and advice we get—in this instance, from a Democratic Governor, a Democratic secretary of state, and the county clerks of the State of Wyoming. Others have spoken of theirs, crying out "do not make us do this." It subverts the rights of States to conduct elections under the Constitution of the United States. We had a right, at one time, and Congress is just comfortably assuming a role of what was always considered to be one of the rights of States, so long as it was done within the confines and structures of the Constitution of America.

I hope our friends on the left will recognize a mandate when they see one. I hope our friends on the left will remember that, in America, at least we once had the idea that Government served us, not compelled us, and not threatened to sue us. I hope at one time that we might remember the potential for abuse and the potential for coercion that is contained in the seemingly innocent piece of legislation. It has not been proven to be a vote increaser in the States in which it has been implemented.

I might say that maybe this Congress, and maybe our friends on the left, would just recognize that some States have felt that this was a thing that they wanted to do and had implemented, and having implemented it, they cannot demonstrate to the rest of America that the cost will bring up the percentage of Americans that vote.

Madam President, when I see party line votes coming down on every issue like this, I hope that our friends on the left will think about what it is they are doing. Their friends in the Democratic Party in America are saying "do not do it," as well as some Republicans on the floor of the Senate tonight.

I yield the floor.

Mr. BIDEN. Madam President, I have had the opportunity to be on the floor for the last few minutes, and I have had the opportunity to hear part of the statement of my distinguished friend from New Hampshire, and the statement of my distinguished friend from Kansas, and now that of my distinguished friend from Wyoming. In one form or another, they all very articulately discuss their "friends on the left," that we should understand about mandates.

I want to point out to my friends on the right, I thought the whole notion of voting was that, first of all, it is not a privilege. I went to school. Where I went to school, they did not talk about it being a privilege. They talked about it being a right.

We may disagree on this legislation, but since my friends are talking about such fundamentals as what we have learned in school, and about the role of Government——

Mr. WALLOP. Will my friend yield for a question?

Mr. BIDEN. I will be happy to.

Mr. WALLOP. Surely he would not consider it in the realm of an obligation like national service?

Mr. BIDEN. Of course not. I do not consider national service a right.

Mr. WALLOP. But I am detecting overtones that the next thing we do, as has been done in some other countries in the world, is order people to go vote under penalty of being absent without a doctor's excuse.

Mr. BIDEN. Madam President, I wondered how long it would take to get to communism. It usually is the staple of the right that anything they oppose be put in the context of something that would in fact do one of two things: either have the Government shoving down someone's throat something they should not have to swallow, or somehow, somewhere around the world, we are going to end up emulating a Communist dictatorship.

Mr. McCONNELL. If the Senator will yield on that point, it is not Communist countries we are talking about here. What the Senator from Wyoming is referring to is not Communist countries; they are democracies, a number of them, that fine or penalize people for not voting. I do not speak for my friend, but I am confident he was not referring to Communist countries, or was he?

Mr. BIDEN addressed the Chair.

Mr. WALLOP. I say it was not. I do not mean to interrupt my friend. I apologize. I was not referring to that. It may be some sort of primeval reaction on the part of my friend from Delaware that I was speaking of communism, but there are countries in the world which are democracies that insist on doing those things, and I see every sign that Washington is headed in that direction.

Mr. BIDEN. I see.

Madam President, I do apologize. It is true, it is an instant reaction. I worked with my friend from Wyoming so long. I do apologize. I should not have jumped to the usual conclusion. I was wrong this time. For that I apologize.

Most of our discussions have involved this notion, though, and right now we are discussing this notion that this motor-voter bill is something else in disguise.

They say to all the folks here and to those listening: beware if this bill passes, you will have the FBI knocking at your door prepared to arrest you if you do not vote.

I do not know why everything seems so sinister to may friends on the right. The further right they are, the more sinister they seem to be.

I just want to make a very basic point, and I think it is the essence of the debate here. My friends on the right, the further right they go, the more they think that voting is a privilege. The further to the center they are, they seem to understand it is a right. Now, that is the only point I want to make.

We are giving civics lessons here. I was being given a civics lesson on the role of the Federal Government, not from my friend from Kentucky. I have not had the benefit of hearing him today, although I always look forward to that, but I did not have that benefit.

I just heard three Senators speaking in a row, giving us a civics lesson. I wanted to remind them of the fundamental underlying principles I thought we all agreed on. I did not want them to be confused. I get confused on occasion on the floor and they watched me do it. I just am suggesting maybe they were confused. Voting is a right, not a privilege, to the extent that you increase the prospect that

suffrage will be broadened—as historically has been a position of those of us who are sitting on this side of the aisle and of many on the other side of the aisle—and made easier. I just wanted to point that out. That is all.

All my colleagues here understand more about this legislation than I do. They have been working on it every day. For that I admire their due diligence. I want to inject my civics lessons. That voting is a right not a privilege.

Mr. SMITH. Madam President, will my friend yield on that point?

Mr. BIDEN. I am happy to yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I cannot vote in Delaware, can I?

Mr. BIDEN. Not unless the Senator moves there.

Mr. SMITH. Then that is a privilege rather than a right.

Mr. BIDEN. I see.

Mr. SMITH. I cannot vote if I am 10 years old, can I?

Mr. BIDEN. I see. OK.

Mr. SMITH. I think we are splitting hairs on a definition.

Mr. BIDEN. I think it has a difference to do with education received in New Hampshire and Delaware.

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

Mr. MCCONNELL. Madam President, I say to my friend from Delaware in terms of how I view right versus privilege, I happen to agree with him. It is a right and not a privilege, but in further elaboration just for his edification since he has not had a chance to listen to this debate much in the past, a number of Democrats that do, in fact fine people, the only reason we discuss that here on the floor is that that is the original thing that any of the groups that have studied voter turnout believe will really increase voter turnout and in fairness to the principal sponsor of this bill I do not think my senior colleague from Kentucky is necessarily arguing it will increase turnout. We know one thing that will increase turnout even in the democracy is fines or penalties, and I am sure that is what the Senator from Wyoming was referring to, not Communist countries.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Kentucky.

Mr. FORD. Madam President, at the end of some remarks I will move to table this amendment and ask for the yeas and nays.

Somehow I guess that we try to hang on 5 minutes longer around here. You begin to get whipped and sawed and you begin to find ways and people write statements that really some of our colleagues do not really believe all of it. If you listen to the statements we heard here this afternoon you would not believe that we are talking about S. 460, the motor-voter registration bill.

It may do this. Or it may do that. Or it may cost or it may not. I have never heard it is going to put our registration 30 days instead of 10.

There is nothing in the bill that says that. It is going to cause us to buy computers. There is nothing in this bill that says that. There is nothing there.

And you talk about Democrats and Republicans. I have talked to Democrats and Republicans and we have letters in the file—I can put them in the RECORD—from statewide elected officials, both Democrat and Republican, supporting this bill.

Mr. BURNS. What are the names?

Mr. FORD. I will give the Senator plenty of those if he wants to get up on the floor and ask.

But they are State-elected officials. Then we talk about an abuse and fraud. There is one thing about this legislation, and in the David Broder article we have heard so much about that that he said we finally have done it right. We brought it up from the grassroots. It has been tried at the local level and finally we are listening to the people, and I cannot understand the barriers have been placed just like trying to get to register now in most places or some places, you got barriers to go over, hoops to jump through, places to drive to, all that we are doing the same thing here.

All we want to do is reconnect, as I said, citizens with Government and give them easy access in being registered to vote.

We place it all on Joe Citizen, place it all on Joe Citizen. It is all your responsibility. I have no challenge to be helpful to them. I have no challenge to be in a position to say here is a vehicle, try it at the grassroots, and we think it is a good one and so we are going to respond to the citizens.

So, Madam President, I hope my colleagues will vote with me to table this amendment and I will move to table.

Mr. MCCONNELL. One final observation before we go.

Mr. FORD. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky to lay on the table amendment of the Senator from Oklahoma.

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

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL], the Senator from Texas [Mr. KRUEGER], and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—53

Akaka	Ford	Mikulski
Baucus	Glenn	Mitchell
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Reid
Byrd	Kerrey	Riegle
Conrad	Kerry	Robb
Daschle	Kohl	Rockefeller
DeConcini	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Dorgan	Levin	Simon
Exon	Lieberman	Wellstone
Feingold	Mathews	Wofford
Feinstein	Metzenbaum	

NAYS—43

Bennett	Durenberger	McConnell
Bond	Faircloth	Murkowski
Boren	Gorton	Nickles
Brown	Gramm	Packwood
Burns	Grassley	Pressler
Chafee	Gregg	Roth
Coats	Hatch	Simpson
Cochran	Helms	Smith
Cohen	Jeffords	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thurmond
D'Amato	Lott	Wallop
Danforth	Lugar	Warner
Dole	Mack	
Domenici	McCain	

NOT VOTING—4

Campbell	Krueger
Hatfield	Shelby

So the motion to lay on the table the amendment (No. 80) was agreed to.

Mr. METZENBAUM. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, could I ask my colleague what his agenda might be for the rest of the evening?

Mr. MCCONNELL. Yes. We are very close to giving my friend from Kentucky the core package.

Mr. FORD. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MCCONNELL. Madam President, we are very close to giving my friend from Kentucky the core package of amendments that we hope the majority will accept, that we think will improve the bill. We should be able to do that momentarily. And then there may be other amendments that will be offered that we expect might be opposed, which we are prepared to continue to offer if my friend would so desire.

Mr. FORD. Did I understand that—will those other amendments then be germane?

Mr. McCONNELL. I think most of them will be. I cannot guarantee that all 42 Senators on this side will offer only germane amendments.

Mr. FORD. I know my colleague has been working for a couple of days, trying to put this core package together. We have not seen it.

Mr. McCONNELL. I know you have not. We are very close.

Mr. GRAMM. I have a tobacco amendment I would like to offer.

Mr. FORD. That is something you and I can agree on, Senator.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. 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. PACKWOOD. Madam President, I ask unanimous consent to speak as in morning business to make a short speech on the murder of the doctor at the abortion clinic yesterday.

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

TRAGIC KILLING OF DR. DAVID GUNN

Mr. PACKWOOD. Madam President, I rise to express my shock and sadness at the senseless tragedy that occurred yesterday: The death of a young doctor who was shot by an antiabortion protester. I am extremely concerned about the escalation of violence directed at medical personnel and women exercising their constitutional right to choose whether or not to have an abortion.

Just 2 months ago, we thought that such crimes would be punishable under Federal law. But after the Supreme Court's ruling in Bray versus Alexandria Women's Health Clinic earlier this year, there is no Federal mechanism to punish those who intimidate patients and staff seeking access to medical facilities.

In the past I have cosponsored legislation which would make such interference with safe access to medical facilities a Federal offense. This Congress I will again cosponsor the Freedom of Access to Clinic Entrances Act which would allow Federal resources to be used if necessary to secure clinics.

Abortion providers are routinely threatened with death, and their clinics have been bombed and vandalized. I understand the seriousness of these threats because I too, have been the victim of a death threat by an extremist antiabortion group. Dr. Gunn is the first to die as a result of these outrageous tactics. Illegal means to overturn legal rights must never be successful. We must never allow a group to force its views on the rest of us through violence and intimidation. Clinic violence must stop, and I urge this Congress to pass legislation to allow Federal resources to be used.

I extend my deepest sympathies to Dr. David Gunn's family and friends during this tragic time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL VOTER REGISTRATION ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. EXON. Madam President, I would like to appeal for some reason on both sides of the aisle on just the matter that is before us but also to maybe begin to set a precedent for moving the Senate ahead in a more expeditious fashion. If you look at the polls these days, you will see that we in this body and our colleagues on the other side of the Hill are not held in the highest of regard for efficiency and moving things along in a rapid fashion by the people at large. I think that applies to both the Democratic and Republican Members of the body.

It seems to me that here is a case where the filibuster is being used in a dilatory fashion. It seems to me that the other day when we voted cloture on this motion the die was cast. It seems to me, therefore, to string out this debate even under the rules of postcloture filibuster is not providing the image of the Senate to get things done that the people would like to see.

The junior Senator from Kentucky not too long ago stated that the people of the country were very much upset about the fact that we were not doing our important matters in a timely fashion. I certainly think there is some legitimacy to what the junior Senator from Kentucky said. He also said that while the Nation was focused on the budgetary matters, we were in the process of passing a bill that was not that important, and I agree with him on that also.

But if all that is true, why are we being held to this postcloture filibuster in what I frankly feel is a very dilatory fashion, certainly not what in my view the Founding Fathers of the country or the precedents in the U.S. Senate envisioned. We are, once again, approaching gridlock on something as relatively unimportant as the motor-voter bill. I do not believe that the motor-voter bill is the mother of all bills by any means, but whether you like it or whether you do not like it, the majority has cast its will. In fact, we had 63 votes the other day on cloture. I think the Senate has spoken.

Therefore, I am very fearful that continuation of these debates and amendments, all, I suspect, which are going to be defeated, puts us back into that gridlock situation and makes the people of the Nation feel that much more discouraged with what we are not doing properly here, in their view.

Therefore, I hope and I plead once again, while everybody has their right to do whatever they want on the floor of the U.S. Senate, and I do not quarrel with that, I believe that there are times when reason has to set in.

I predict, Madam President, that few, if any, of these amendments, and I think none, will be adopted. Therefore, in the end after we have all gone through this exercise in futility, wasted the time of the Senate and expense on this matter that already has been decided by the cloture vote previously entered into by the Senate, that we are carrying on gridlock, not getting our work done, primarily because we are being diverted by these types of filibusters and delaying tactics that certainly does not contribute to either the good of the country of the image of the U.S. Senate.

I thank the Chair and I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. 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. SMITH. Madam President, I have two letters from individuals from my State. I ask unanimous consent that they be printed in the RECORD.

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

THE STATE OF NEW HAMPSHIRE,
Concord, NH, February 9, 1993.

Hon. ROBERT C. SMITH,
U.S. Senator, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: I am writing in opposition to HB #2 and SB #2, better known as Motor Voter Legislation.

My concern is that it imposes additional administrative responsibilities on our state, but does not provide adequate funding to meet the cost of implementing such a program.

We in New Hampshire have streamlined our Motor Vehicle operation to reduce long lines at our substations, and I am afraid all this will do is bring back the long lines.

Your help in defeating this legislation will be very much appreciated.

Sincerely,

ROBERT K. TURNER,
Director of Motor Vehicles.

EMPLOYMENT SECURITY,
Concord NH, January 28, 1993.

Hon. ROBERT SMITH,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR SMITH: I am writing to call your attention to the impact of H.R. 2, the National Voter Registration Act of 1993, on our state's unemployment insurance services.

Section 7(a)(2)(A) of H.R. 2 specifically requires state unemployment insurance offices to provide voter registration services. It requires staff assistance in completing the applications, modifying unemployment claim forms to provide for individuals to certify that they decline to register, forwarding completed forms to the proper state agency and, as we interpret it, requiring applications to be provided each time an individual makes a weekly or bi-weekly claim for unemployment benefits, i.e., "recertifies" for benefits.

I am concerned that the requirements of this legislation could give unemployed individuals the impression that their political affiliation or unwillingness to register to vote might affect their eligibility for benefits. Requiring individuals to certify that they decline to register each time (i.e., weekly or biweekly) they file a claim could appear coercive. Any hint that one's eligibility for benefits is tied to one's political affiliation or participation in the political process could irreparably damage the unemployment compensation program.

Apart from these considerations, no funds are available to carry our responsibilities under this legislation. Federal funds provided to states to administer unemployment compensation programs are authorized by Title III of the Social Security Act. We have absolutely no state funds in our budget and those federal funds can be used only for the proper and efficient administration of unemployment compensation laws. States cannot legally use their current UC resources to provide voter registration services. Unless other federal funds are provided this becomes another federal "unfunded mandate" on states.

I encourage you to seek a modification in this legislation to require only that voter registration materials be made available in local unemployment compensation offices, rather than requiring these agencies to register voters.

If state UC agencies are required by federal law to provide voter registration services, federal funds should be authorized and appropriated for this purpose. If that is not possible, the bill should be amended to allow the states to use their UC administrative money to carry out the requirements of H.R. 2.

Sincerely,

JOHN J. RATOFF,
Commissioner.

Mr. SMITH. Madam President, there is a letter from the director of motor vehicles, Robert Turner. And Director Turner points out that New Hampshire has tried to streamline its motor vehicle operation to reduce the long lines that sometimes result and that the enactment of the motor-voter bill, he believes, could have the effect of bringing those lines back.

Just reading briefly from Director Turner's letter, he says that it is his "concern that it imposes additional administrative responsibilities on our State, but does not provide adequate costs of implementing such a program." That, of course, is something that has been stated a number of times this afternoon.

Also, I have a letter from Mr. John Ratoff, the commissioner of the employment security office in Concord, NH, and I believe I covered that in the original request. I would just like to quote from one paragraph in that letter in which he says:

I am concerned that the requirements of this legislation could give unemployed individuals the impression that their political affiliation or unwillingness to register to vote might affect their eligibility for benefits. Requiring individuals to certify that they decline to register each time (i.e. weekly or biweekly) they file a claim could appear coercive.

And any hint that one's eligibility for benefits is tied to one's political affiliation or participation in the political process could irreparably damage the unemployment compensation program.

I think this is extremely good advice for the Senate to consider, that there should not be any attempt to coerce or in any way relate benefits to one's party affiliation or registration or willingness or nonwillingness to vote. And also again, under the same guidelines as Mr. Turner indicated, Commissioner Ratoff also points out that no funds are available to carry out the responsibilities under this legislation.

So I just wanted to get those two letters in the RECORD at this time, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I wanted to say to the majority leader, I am not going to take very long. Actually, if they are ready to do something, they can just give me the word.

Madam President, I would like to offer comments about several provisions of this bill which I believe merit further consideration.

I would like to first note an observation that I find somewhat intriguing. Like my colleagues, issues of importance to the public generally result in hundreds, if not thousands, of communications from our State's citizens. I find it interesting to note that in the case of this measure, I have received only eight letters: four from national public interest organizations that support the bill and four from constituents in my State opposing the bill.

There are, no doubt, numerous reasons for this general disinterest, and I do not intend to speculate on the causal factors involved. However, one letter from my State identifies issues of concern that I believe articulates well several problems of this measure.

The secretary of New Mexico's department of labor clearly details two overriding concerns: the financial implications of this measure and the potential appearance of political coercion. I believe the secretary's comments clearly separate a well-intended concept from the realities of implementation.

With respect to the cost effectiveness of this matter, proponents argue that any financial obligations are miniscule. I respectfully submit that the State of New Mexico does not agree with this rosy analysis. Let me quote from our secretary of labor's letter:

* * * no funds are available to carry out responsibilities under this legislation. We estimate that the requirements of this bill would cost $80,000 for staff in our state. Federal funds provided to states to administer unemployment compensation programs are authorized by Title III of the Social Security Act. Those funds can be used only for the proper and efficient administration of unemployment compensation laws. States cannot legally use their current UC resources to provide voter registration services. State budgets are tight everywhere. Unless other federal funds are provided, this becomes another federal "unfunded mandate" on states."

Let me emphasize, again: "Unless other federal funds are provided, this becomes another federal 'unfunded mandate' on states."

New Mexico, while a large State geographically, has approximately 1.5 million citizens, and $80,000 squeezed from an already burdened State budget is a great deal of money. What may represent but a few dollars to someone else is not viewed in the same light in my State. I can assure you that there will be many proponents of worthwhile State programs who are going to be more than unhappy to find their critical programs reduced to pay for this new Federal mandate.

There is nothing in this measure that provides funds to help the States. Why? I surmise one reason is that the Federal Government doesn't have the money either. As is far too often the case, Congress is responsible for the good ideas and then it passes the costs back to the public—and we define it either as a contribution to a great cause or a tax for the public good.

At the same time, we have also placed new and critical mandates on the Federal Election Commission [FEC] for enforcement of this law, and, once again, Congress has provided no new funding to meet these requirements. As a consequence, the FEC has already appeared before the House Appropriations Subcommittee on Treasury, Postal Service, and General Government and requested an increase of its budget by approximately 10 percent. The FEC is asking for $23.6 million more to implement this bill.

Mr. President, I would like to suggest that since we have now established a new commission to examine the costs and efficiency of the Federal Government, we better look at the issue of mandating good ideas with a way of paying for them. If we're going to change the way Government does business, maybe we should first institute some sound business principles ourselves.

The second issue of the New Mexico secretary of labor's letter concerns the issue of coercion. Again, let me quote:

I am concerned that the requirements of this legislation could give unemployed individuals the impression that their political affiliation or unwillingness to register to vote might affect their eligibility for benefits. Requiring individuals to certify that they decline to register each time (i.e., weekly or biweekly) they file a claim could appear coercive. Any hint that one's eligibility for benefits is tied to one's political affiliation or participation in the political process could irreparably damage the unemployment compensation program."

We fondly call this bill a motor-voter bill. However, this bill doesn't just include departments of motor vehicles, it mandates that States designate all offices in the State which provide public assistance, unemployment compensation and related services as entities for registering voters.

New Mexico's secretary of labor is right. Any hint of a linkage between one's benefits and one's political affiliation or participation subverts the intent of our public assistance programs and undermines the very ideals of our democratic form of government.

As noted in the minority views of the Report of the Senate Committee on Rules and Administration, the Department of Justice communicated this warning:

The Department's experience demonstrates that public officials sometimes use their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party. This bill would increase substantially the opportunities for such intimidation and coercion of the public.

These are powerful statements that should be considered thoroughly. Any linkage between receiving benefits and voting in an election is fundamentally wrong, and frankly, extraordinarily unfair to the very individuals we are purporting to help.

Moreover, the bill's report also states that "* * * forms and assistance in completing such forms—will be available routinely and year round in many government and private sector offices," and that there will be "individuals to assist registrants in completing the information on the registration application."

Now, I wonder what kind of assistance we expect from already pressured and overworked public employees. If any of you have stood in multiple lines to apply for a new driver's license, the level of expected service from that harried public employee to fill out a voter registration form defies the imagination.

We are now asking that everyone from motor vehicle employees to unemployment clerks be experts in voter registration laws. This is ludicrous. Aside from the political implications of intimidation or coercion, the issue of time and knowledge is a reality we fail to address. But, once again, we mandate good ideas with little understanding of the realities of implementation.

In closing, I would like to add one additional thought. For those who argue that this bill encourages participation, I would suggest that it merely provides another facility to register to vote. It's that simple. Let's just say that. It doesn't encourage anyone to go out in the cold or rain to vote. It doesn't encourage anyone to drive someone to the polls to vote. It doesn't encourage anyone to participate in this constitutionally guaranteed right.

This measure merely creates additional registration points or facilities for citizens to register their intent to participate in our democratic process. Is this a good idea. Of course. We have lots of good ideas. However, there's a big gap between facilitating a good idea and the actual result of participation. I would prefer that while mandating another one of our good ideas we would also honestly assess what this bill provides and what it fails to provide. I believe the few points I have discussed above reveal several valid reasons why this so-called motor-voter bill is just another good idea with little thought to the potential ramifications or outcomes. If we wonder why the public questions the efficiency or effectiveness of its Government, or why the public fails to participate in the elective process, we might just look to passage of this measure as another example of a good idea lacking substantive analysis or a means of implementation.

Madam President, I have heard an awful lot about how important this bill is. And in this new era of participation by our people and by institutions in wanting to tell us what they think should happen, I find little or no interest. I have received eight communications, four from public-interest groups, three of which are in Washington, DC, and four letters from constituents, all four against it.

Most of the issues before us recently the people are very concerned about. One day after they are in the public domain, we are hearing from our constituents. Not so on this one.

I believe that it is far more important that I come to the floor and not give you my views—because I would suspect, just like he says, especially since I find that he thinks every time you qualify, you have to certify that you do not want to register to vote, which could become a rather frequent event—I think it is important that we listen to this kind of people.

This is not a motor-voter bill. This secretary is not writing me about motor-voter. He is writing me about something else in this bill that talks about public institutions, institutions like the Department of Labor, across this country. And I tend to agree that this secretary has put his finger right on the mark. In the interest of saying, "We want to help you register," what we are also doing is saying it to people who might not want to register, as he says, because they do not want to do it in the unemployment office because they are fearful it has some effect on the unemployment. It turns out to be far more than giving them a voluntary opportunity to participate in our democracy by voting by making it easier for them to register. It turns out that it has potential to do some real harm. And he uses the word "irreparable."

Mrs. BOXER. Mr. President, I rise in strong support of the National Voter Registration Act.

With the adoption of the 15th amendment to the Constitution in 1871, our Nation extended the franchise to African-American men. Nearly 50 years later, women won the right to vote. And democracy was extended to all Americans age 18 and over. Despite these constitutional guarantees, barely half of all eligible Americans actually vote.

Why do not more Americans vote? There are a variety of reasons. Some are apathetic. Some believe that their votes will not make a difference. But Mr. President, the experts agree that millions of Americans are unable to exercise their constitutionally protected right to vote simply because they are not registered.

The data are indisputable. According to the Census Bureau, over 85 percent of those registered actually vote. If we want to increase voter turnout rates, we must increase registration rates.

The motor-voter bill will do just that by making registration more available and accessible. Nearly 90 percent of all Americans have a driver's license, and the applications they are required to complete are nearly identical to voter registration forms. Combining these applications makes simple common sense.

Nearly 90 percent of all eligible Americans could be registered under the motor-voter provisions of this bill, but there is more. People could also register at unemployment or public assistance offices. And finally, this bill requires all States to allow registration by mail—a system currently used successfully in a majority of the States.

Opponents of this legislation have reached deep into a familiar bag of tricks to come up with arguments against this bill. They say it will result in rampant fraud or that it infringes on States rights.

Mr. President, we know these arguments so well because we have heard them all before. We heard them from legislators opposed to expanding the franchise to freed slaves because they thought that African-Americans would be easily confused into selling their votes. We heard them from legislators who argued that newly enfranchised women would simply fall under the influence of their husbands and waste

their votes. And we heard them from legislators who argued that college students were incapable of exercising the right to vote because they would be so easily influenced by their professors.

These arguments were wrong in the past and they are wrong today.

Opponents of this legislation have found one new argument—that the costs associated with motor-voter registration would damage several fragile State economies. In debate last week, the junior Senator from Kentucky, Senator MCCONNELL, discussed California's economic situation at great length. He said that my State was in a depression, said that its finances were in a severe crisis twice, and referred to its economic problems alternately as difficult, devastating, severe, serious, and enormous. Passing this legislation, he argued, would exacerbate California's problems.

I must say that I was touched by my colleagues' concern for my State and I trust that his distress will lead him to support the President's economic plan, which will help provide the relief that California so desperately needs. Furthermore, I hope that he will support my efforts and those of Senator FEINSTEIN to obtain funding to help California mitigate the cost of immigration and to help displaced defense industry workers retrain for other jobs.

California needs that help now more than ever. According to statistics released last Friday by the Bureau of Labor Statistics, California's unemployment rate jumped three-tenths of 1 percent last month, while unemployment nationwide declined slightly. The unemployment rate in my home State now stands at a staggering 9.8 percent—2.8 percent above the national rate.

So we will have an excellent opportunity to help California, and I trust that the junior Senator from Kentucky will be my ally in that effort. I want to make one point crystal clear about motor-voter. Despite the comments by the junior Senator from Kentucky, there is broad support for this legislation in California. Increased participation in the political process is a very important goal of our people and the State's leaders.

On Thursday, three constitutional officers of the State of California contacted the chairman of the Rules Committee, Senator FORD, to express their support for this bill and clarify that the costs that California may incur have been greatly exaggerated in debate on S. 460.

March Fong Eu, California's Secretary of State for 18 years, wrote to reiterate her support. She writes:

> It would be a travesty to oppose this bill on the grounds that we should not pay the relatively modest price for providing for the exercise of the people's right to vote.

The junior Senator from Kentucky had dismissed Secretary Eu's support for this measure, arguing that as secretary of state she is unconcerned with the financial implications of this legislation. Mr. President, March Fong Eu is a life-long public servant who has dedicated her career to the health and well-being of the State of California. Of course she is concerned with costs. She supports the National Voter Registration Act because she knows that its benefits are compelling.

Gray Davis, the State controller—a man very much concerned with California's economic vitality—writes:

> Opponents of the legislation have raised the issue of cost as a reason to block this important initiative. As California's chief fiscal officer, I believe their concerns are overstated and should not overshadow the clear benefits of this bill.

And finally, Leo McCarthy, California's distinguished Lieutenant Governor, also wrote to share his view with us. Quote, "I urge quick action by the Senate to approve S. 460."

I will ask unanimous consent that these three letters appear in the RECORD at the end of my remarks.

Mr. President, the issue of cost is a legitimate one, but S. 460 addresses it fully. Last week, Senator MCCONNELL cited a letter that said it would cost California $26 million to implement motor-voter. Actually, it is impossible to determine the exact cost of this legislation to California or any other State because the bill allows individual States flexibility in implementing the program.

For example, S. 460 neither requires nor necessitates the computerization of the voter registration process. To save money, the District of Columbia implemented its motor-voter program without computers. That was the District's choice.

Furthermore, there are substantial offsets to the costs States may incur. Enacting the bill would equalize the demand to register over the entire year, eliminating the traditional preelection rush. States would no longer need to hire part-time employees or pay extensive overtime costs as registration deadlines approach. The Congressional Budget Office estimates that this could save local election officials $10 million in Presidential election years and $7 million in non-Presidential election years.

Also, the bill includes a postal rate reduction for all mailings required by the bill. CBO estimates that such low-cost mailings would save States about $2 million annually.

But we do know one thing for certain. If, as I and other supporters of this bill fully expect, this legislation results in higher registration and turnout rates, it will result in higher election costs. As more people vote, election costs rise. There are more sample ballots to print and mail, more precinct workers to hire, and more votes to count. This is economic reality. It is the price of democracy. It is the cost of the expansive nature of our democracy.

To those who are using the issue of cost to oppose this expansion of democracy, let me say to you, trust the people. Do not fear them. Reach out to the people by passing this motor-voter bill as your predecessors reached out to give nonproperty owners the right to vote, African-Americans the right to vote, women the right to vote, and 18-year-olds the right to vote. Reach out to the people and our Nation will grow stronger.

I believe that those opposing this bill are less afraid of fraud or cost than of change. I will be first to admit that I do not know the political consequences of unleashing millions of new voters into the electoral process. But Mr. President, I believe that we must not fear change, we must have the courage to embrace it.

In his inaugural address President Clinton urged us to, "resolve to reform our politics, so that power and privilege no longer shout down the voice of the people." Mr. President, today we have the chance to arm the people's voice with democracy's mightiest weapon. We dare not let this historic opportunity slip by.

I ask that the letters to which I referred be printed in the RECORD.

There being objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF CALIFORNIA,
Sacramento, CA, March 4, 1993.

Hon. WENDELL H. FORD,
Chair, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I am writing to express my very strong support for S. 460, the National Voter Registration Act of 1993.

California has long been at the forefront of making voting easier for our citizens. As Assembly Speaker I worked with Secretary of State March Fong Eu to enact registration by mail in 1976. I have long advocated agency-based registration as a further measure to enhance voter participation.

I urge quick action by the Senate to approve S. 460.

Sincerely,

LEO MCCARTHY,
Lieutenant Governor.

CONTROLLER OF THE
STATE OF CALIFORNIA,
Sacramento, CA, March 4, 1993.

Hon. WENDELL H. FORD,
Chair, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I wish to lend my support to S. 460, the National Registration Act of 1993.

Opponents of the legislation have raised the issue of cost as a reason to block this important initiative. As California's chief fiscal officer, I believe their concerns are overstated and should not overshadow the clear benefits of this bill.

Exact costs will only be calculated once a specific implementation plan is determined. Furthermore, many of the costs will be one-time start-up costs, not on-going program expenditures. In any case, the cost would be

but a fraction of the overall expense of holding an election.

Much of the additional expense is associated with having more people on the voter roles—an estimated 2.2 million new registrants. I believe we should not put a price tag on citizen participation, so long as those costs are within reason—which in this case they clearly are.

In the case of S. 460, the costs of registering more voters is very modest, especially compared to the overall administrative costs of holding an election.

I strongly urge passage of this legislation to expand participation in the electoral process.

Sincerely,

GRAY DAVIS,
Controller, State of California.

OFFICE OF THE SECRETARY OF STATE,
Sacramento, CA, March 4, 1993.

Hon. WENDELL H. FORD,
Chair, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I am writing to reiterate my continuing support for S. 460 and the programs embodied in this legislation to facilitate exercise of the franchise by all citizens. I have always supported registration by mail, "motor voter" and agency-based registration as workable, effective programs to increase voter participation.

I understand that there has been an effort to use the concerns I expressed in my letter to you dated March 13, 1991 regarding S. 250 as arguments against S. 460. This is nonsense. That letter reflected a compromise view at the time of a task force of elections officials in California. The task force expressed support for S. 250 but expressed concerns. Those concerns have largely been addressed in S. 460 and interpretive materials related to it.

There is, to be sure, the issue of funding. There will be costs associated with implementing S. 460; however, I believe that through proper implementation, they can be minimized. Much of the cost, actually, is driven by the fact that more people will be registered and voting and that, I submit, is simply the cost of democracy. It would be a travesty to oppose this bill on the grounds that we should not pay the relatively modest price of providing for the exercise of the people's right to vote. The fact is, in the context of the overall cost of conducting elections, the cost is modest indeed.

I have always supported voters to facilitate the right of citizens to vote. That is why I support S. 460.

If your staff has questions regarding this matter, please have them contact my chief deputy, Tony Miller, at 916-445-6371.

Sincerely,

MARCH FONG EU.

Unless the leadership wants the floor, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations. Calendar 33, 34, 35, 36, and 37, and all nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I ask further unanimous consent that the Senate proceed to their immediate consideration and that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following officers of appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of section 593, 8218, 8373, and 8374, title 10 United States Code:

To be major general

Brig. Gen. Nora A. Astafan [redacted] Air Force Reserve.

Brig. Gen. Gerald F. Crum [redacted], Air Force Reserve.

Brig. Gen. Esker K. Davis [redacted] Air Force Reserve.

Brig. Gen. David C. Gildart [redacted] Air Force Reserve.

Brig. Gen. William F. Willoughby [redacted] Air Force Reserve.

To be brigadier general

Col. Alan H. Bruce [redacted] Air Force Reserve.

Col. Jim L. Folsom [redacted] Air Force Reserve.

Col. Danny A. Hogan [redacted] Air Force Reserve.

Col. Michael J. Quarnaccio [redacted] Air Force Reserve.

Col. Keith T. Reiling [redacted] Air Force Reserve.

Col. Jerry Scott [redacted] Air Force Reserve.

Col. Donald B. Stokes [redacted] Air Force Reserve.

Col. James L. Turne [redacted] Air Force Reserve.

Col. Ralph M. Utterback, Jr [redacted], Air Force Reserve.

Col. Leonard D. Williams [redacted] Air Force Reserve.

Col. Robert J. Winne [redacted] Air Force Reserve.

The following named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles J. Searock, Jr [redacted] United States Air Force.

The following named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of Section 593, 8218, 8373, and 8374, Title 10, United States Code:

To be major general

Brig. Gen. Eugene R. Andreott [redacted] Air National Guard of the United States.

Brig. Gen. Michael J. Bower [redacted], Air National Guard of the United States.

Brig. Gen. Michael S. Hal [redacted] Air National Guard of the United States.

Brig. Gen. Wallace D. Hegg [redacted] Air National Guard of the United States.

Brig. Gen. Gene A. Katk [redacted] Air National Guard of the United States.

Brig. Gen. Lawrence A. Maciariello [redacted] Air National Guard of the United States.

Brig. Gen. David J. Ris [redacted] Air National Guard of the United States.

Col. Larry K. Arnold [redacted] Air National Guard of the United States.

Col. Douglas Burnett [redacted] Air National Guard of the United States.

Col. Charles D. Burnfield [redacted] Air National Guard of the United States.

Col. John T. Byrd [redacted] Air National Guard of the United States.

Col. John J. Crawford, J [redacted] Air National Guard of the United States.

Col. Samuel G. Degeneres [redacted] Air National Guard of the United States.

Col. George A. Demers [redacted] Air National Guard of the United States.

Col. Thomas H. Despain [redacted] Air National Guard of the United States.

Col. Gary W. Felstead [redacted] Air National Guard of the United States.

Col. Jon C. Heaton [redacted] Air National Guard of the United States.

Col. Gary E. Kaiser [redacted] Air National Guard of the United States.

Col. Stephen G. Kearney [redacted] Air National Guard of the United States.

Col. Emmett L. McCutchin [redacted] Air National Guard of the United States.

Col. James McIntosh [redacted] Air National Guard of the United States.

Col. Melvyn S. Montano [redacted] Air National Guard of the United States.

Col. Donald L. Powell [redacted] Air National Guard of the United States.

Col. Thomas W. Powers [redacted] Air National Guard of the United States.

Col. Wilbur E. Rose [redacted] Air National Guard of the United States.

Col. Victor R. Schwanbeck [redacted] Air National Guard of the United States.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Edwin H. Burba, Jr [redacted], U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. James H. Garne [redacted].

Brig. Gen. Ronald O. Harriso [redacted].

Brig. Gen. Charles M. Hood, Jr [redacted].

Brig. Gen. Jan P. Wepste [redacted].

Brig. Gen. Clayton A. Hovda [redacted].

Brig. Gen. George W. Schule [redacted].

To be brigadier general

Col. Spessard Boatrigh [redacted].

Col. Henry Castillor [redacted].

Col. Charles O. Dillard [redacted].

Col. Richard S. Poole [redacted].

Col. Sharon K. Vander Zy [redacted].

Col. William B. Watson [redacted].

Col. Richard O. Carte [redacted].

Col. David W. Gay [redacted].

Col. Alben N. Hopkins [redacted].

Col. George J. Blysal [redacted].
Col. Dennis Fagan [redacted].
Col. Tommy F. Grier, Jr [redacted].
Col. Ronald K. Kerwood [redacted]
Col. Leroy S. Legowik [redacted].
Col. Joseph O. Nixon [redacted].
Col. John W. Hubbard [redacted].
Col. Jerry C. Smither [redacted].
Col. Paul G. Wisley [redacted].

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Molly J. Hall, and ending David A. Wagie, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Joseph H. Kwan, and ending James V. Simpson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Richard V. Briggs, Jr., and ending Judith A. Volpe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Michael A. Cuddihee, and ending Linda N. Foote, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Maj. Joseph J. Bulmer, Jr [redacted] and ending Maj. Frank D. Walterschei [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Maj. Kathleen M. Ambrosia [redacted] and ending Maj. Gerald M. Schneide [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Maj. Frank S. Arnone [redacted] and ending Maj. Richard E. Hort [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Larry I Corman, and ending Richard L. Stahlman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Paul J. Affleck, and ending Shawn M. Varney, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Jerald K. Aoki, and ending Agapito Miranda, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Raymond B. Abarca, and ending Todd C. Zumbehl, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Air Force nominations beginning Thomas R. Corbitt, and ending John F. Rivero, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 7, 1993.

Air Force nominations beginning Bobby J. Abernathy, and ending Elias N. Souri, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 7, 1993.

Air Force nominations beginning Major Christopher J. Cochran [redacted] and ending Major Deborah L.Hart [redacted] which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Air Force nominations beginning Shyamali Armstrong, and ending Christopher A. Worley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 25, 1993.

Army nominations beginning John A. Bauer, and ending Frank J. Whalen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Gerald E. Crocker, and ending Joseph A. Gagliardi, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Alan L. Blatterman, and ending Patricia A. Gustafson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Rick Baccus, and ending Patricia D. Prechter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning *Celso G. Bolet, and ending Patricia A. Rikli, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Jerry L. Anderson, and ending James Coffey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Charles E. Benson, and ending Clorinda K Zawacki, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Alfonso J Ahuja, and ending Robert Shakespeare, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning Veron L. Benson, and ending Joseph B. Ezhaya, which nominations were received by the Senate on January 19, 1993 and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Marine Corps nomination of Michael F. Monigan, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Marine Corps nomination beginning Robert E Braithwaite, and ending James L Sachtleben, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Marine Corps nomination beginning David R Harman, and ending Dennis K Staver, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Marine Corps nomination beginning Mark S Barnhart, and ending Clarence L Wallace, Jr, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Marine Corps nomination of Frederick N. Shepard, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Marine Corps nomination of William D Beydler, and ending Robert S Zak, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Navy nomination of Robert Enrique Ybanez, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Jerry Wayne Bean, and ending Bruce Leon Hawk, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Danny Wayne Armstrong, and ending William Earl Danka, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning John Francis Brown, and ending Jean Ann Thurber, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Matthew Bernard Allmann, and ending Winston C. Thomas, Jr, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Alan Douglas Ariel, and ending Robert Lee Thome, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Russell Scott Anderson, and ending Cynthia Louise Spaid, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Joseph F. Bagnick, and ending Michael F. Woelkers, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Navy nominations beginning Scott L. Ackley, and ending Kevin Robert Slates, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Daniel Joe Franken, and ending Roland Michael Franklin, which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Paul Frederick Blunt, and ending George Allen Zolla, Jr, which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Gerald Roger Beaman, and ending Winston D. Wood, which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning David McDowell Brown, which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Kent Michael Bayer, and ending Matthew John Flaherty, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Robert William Alcala, and ending John Randloph Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

Navy nominations beginning Leonard R. Klein, and ending Andrew Jackson May, III, which nominations were received by the Senate on January 19, 1993, and appeared in the CONGRESSIONAL RECORD of January 20, 1993.

*Signifies nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. Mr. President, on behalf of the majority leader, pursuant to appropriate provisions of Public Law 102-246, the majority leader appoints the following individuals as members of the Library of Congress Trust Fund Board: John W. Kluge of New York and Arthur Ortenberg of New York.

GREEK INDEPENDENCE DAY—NATIONAL AGRICULTURE DAY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of the following joint resolutions: Senate Joint Resolution 22 designating Greek Independence Day and Senate Joint Resolution 36 designating National Agriculture Day, and that the Senate then proceed en bloc to their immediate consideration; that the joint resolutions be deemed read three times and passed en bloc, the preambles agreed to, and the motions to reconsider laid upon the table en bloc; further that the consideration of these items appear individually in the RECORD and any statements relating thereto appear in the appropriate place.

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

The joint resolution (Senate Joint Resolution 22) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 22

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas these and other ideals have forged a close bond between our two nations and their peoples;

Whereas March 25, 1993, marks the one hundred and seventy-second anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations were born: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1993, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution (S.J. Res. 36) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 36

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas the United States agricultural sector serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in the world trade markets;

Whereas the Nation's heritage of family-owned, family-operated farms and ranches has been the core of the American Agricultural system and continues to be the best means for assuring the protection of our natural resources and the production of an adequate and affordable supply of food and fiber for future generations of Americans;

Whereas the American agricultural system provides American consumers with a stable supply of the highest quality food and fiber for the lowest cost per capita in the world;

Whereas American agriculture continually seeks to maintain and improve the high level of product quality and safety expected by the consumer;

Whereas the public should be aware of the contributions of all people—men and women—who are a part of American agriculture and its contributions to American life, health, and prosperity;

Whereas women play a vital role in maintaining the family farm system, both as sole operators and as working partners, and are also attaining important leadership roles throughout the American agricultural system;

Whereas farm workers are an indispensable part of the agricultural system as witnessed by their hard work and dedication;

Whereas scientists and researchers play an integral part in the agricultural system in their search for better and more efficient ways to produce and process safe and nutritious agricultural products;

Whereas farmers and food processors are responding to the desire of health-conscious American consumers by developing more health-oriented food products;

Whereas distributors play an important role in transporting agricultural products to retailers who in turn make the products available to the consumer;

Whereas our youth—the future of our Nation—have become involved through various organizations in increasing their understanding and our understanding of the importance of agriculture in today's society;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas;

Whereas since 1973, the first day of spring has been celebrated as National Agriculture day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, other persons involved in the agricultural system, and Federal, State, and local governments; and

Whereas 1993 marks the twentieth celebration of National Agriculture Day; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1993, is proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 14, through March 20.

MEASURE PLACED ON CALENDAR

Mr. INOUYE. Mr. President, I ask unanimous consent that H.R. 890, a bill relating to FDIC treatment of unclaimed deposits, be placed on the calendar.

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

REAUTHORIZATION OF THE EXPORT ADMINISTRATION ACT OF 1979

Mr. INOUYE. Mr. President, in behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 6, H.R. 750, an act to extend the Export Administration Act of 1979; that the bill be deemed read three times and passed, and the motion to reconsider be laid upon the table.

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

Mr. RIEGLE. Mr. President, I rise in support of H.R. 750, a bill that renews and extends the Export Administration Act [EAA] through June 30, 1994, and authorizes appropriations under that act for fiscal years 1993 and 1994.

The EAA permits the President to control exports for purposes of national security, foreign policy, and domestic short supply. It provided the statutory basis for the export control regime the United States used during the cold war to deny the Soviet Union and its allies critical technologies which could have been used to strengthen their military capabilities.

Almost 4 years ago the Banking Committee began to develop legislation to refocus our export control system as the cold war was ending. Congress, in 1989 and 1990, spent countless hours on this matter and developed a bill, H.R. 4653, that: First, streamlined our national security controls governing exports to the newly emerging democracies of Eastern Europe; second, instituted new export controls on goods that could assist renegade governments to develop chemical and biological weapons and the means to deliver them; and third, imposed sanctions on Iraq for its invasion and occupation of Kuwait. The conference report on H.R. 4653 was sent to President Bush in October 1990. Conferees had labored in full consultation with the administration to ensure that the new controls H.R. 4653 fashioned on chemical and biologi-

cal weapons and the means to deliver them would be acceptable and effective.

Despite this, shortly after the Senate passed the conference report, we began to hear reports that some of President Bush's advisers were recommending that he veto the bill. They complained H.R. 4653 did not provide the President with complete discretion to waive sanctions against foreign companies that knowingly and materially assisted in the development and/or use of chemical and biological weapons, or against countries that used such weapons in violation of international law. To head off a veto 79 Senators wrote to President Bush on October 27, 1990, and urged him to sign the conference report. He refused to do so and the EAA which expired on September 30, 1990, remained lapsed.

Immediately after the opening of the 102d Congress in 1991, the Senate passed S. 320, which was almost identical to the EAA conference report vetoed by President Bush. The House ultimately passed its own bill, H.R. 3489, which included new provisions to tighten controls on nuclear proliferation. These controls were unacceptable to the Bush administration, and its officials made threats to veto any new conference report containing such provisions. In October 1992, conferees met and agreed to postpone consideration, until 1993, of the nuclear provisions of H.R. 3489 that the Bush administration found unacceptable. All other differences were reconciled, and the new conference report on H.R. 3489 which renewed and amended the EAA was passed by the Senate on October 8, 1992, without any objection. Unfortunately a small group of House Members blocked H.R. 3489's final passage in that body on the last day of the 102d Congress, and once again legislation renewing and amending the EAA failed to pass.

Since the EAA's expiration on September 30, 1990, our export control system has been operated by the executive branch pursuant to an Executive order issued under the authority of the International Emergency Economic Powers Act [IEEPA]. That act, which is to be used during international economic emergencies was not designed to be used on a continuing basis to authorize our export control system. The Commerce Department, in fact, now faces some legal challenges to its authority to continue to operate our export control regime under the IEEPA. In addition, some have questioned whether the antiboycott provisions of the EAA are enforceable under the IEEPA.

At the moment, most of the legal challenges are still in litigation. Continuously battling these challenges to the Department's authority diverts essential financial, legal, and technical resources from that Department's fundamental task of administering an effective export control system.

In addition to the legal challenges, IEEPA provides inadequate law enforcement authority. For example, the EAA gives agents of the Commerce Department key investigative powers, such as the ability to execute search warrants which are absent under IEEPA. Therefore, the Department has been forced to deputize agents as Special Deputy U.S. Marshals whose status must be renewed periodically.

On February 12, 1993, Secretary of Commerce Ron Brown wrote to me and asked that we pass on extension of the EAA. In that letter he noted that the "IEEPA is not ideally suited to serve for an extended period of time as the authority to administer our system of export controls." He further noted that an extension of the EAA "would provide an opportunity for the administration and the Congress to collaborate in a major refashioning of this statute * * * to reflect the enormous changes in world conditions that have occurred since the act expired."

In response to a letter written to him by Senators D'AMATO and MACK, President Clinton himself wrote a letter to them on February 23, 1993, asking for an extension of the EAA "to provide an opportunity for the administration and Congress to collaborate in a major refashioning of our system of export controls." I look forward to working with President Clinton and the new administration in doing so.

We must fashion a system of export controls that safeguards our national security interests in preventing proliferation of nuclear, chemical, and biological weapons and the means to deliver them. Last October, the Banking Committee held a hearing examining how United States licensed exports helped Iraq strengthen its military machine prior to its invasion of Kuwait. We must develop an export control regime that will prevent such occurrences in the future.

If, however, we are going to stop U.S. companies from making certain types of exports to predator nations, we must ensure other civilized nations do the same. Otherwise we are not achieving the purposes of our own controls. A multilateral approach to this matter is called for. During the period of the cold war, we achieved such a system in the Cocom and worked together with our allies to deny critical technologies to the Soviet Union. We must do the same thing now with regard to terrorist and other predator nations.

The Banking Committee will make recrafting an effective export control regime a top priority in this new Congress. I welcome a chance to work with President Clinton and his administration in doing so.

Mr. SARBANES. Mr. President, I rise in support of H.R. 750, a bill which would reauthorize the Export Administration Act through June 30, 1994.

The Export Administration Act has been out of force since September 30, 1990. In that year the Congress passed a reauthorization of the EAA, which I helped manage as chairman of the Subcommittee on International Finance and Monetary Policy of the Senate Banking Committee. Unfortunately, the bill was pocket-vetoed by the President because of objections to provisions in the bill which would have imposed sanctions on countries which use chemical and biological weapons. The President invoked the authority of the International Emergency Economic Powers Act [IEEPA] in order to continue controls on exports absent the authority of the EAA.

In the last Congress considerable efforts were made to reauthorize the Export Administration Act based on the bill passed by the Congress in 1990. Both the House and the Senate passed a bill, and a conference committee met to resolve the differences. An agreement was reached, and a conference report was sent back to the Senate and House at the end of last year. The conference report passed the Senate, but unfortunately the House was unable to act on the conference report prior to adjournment.

As a result, export controls have been imposed by the President for over 2 years now, pursuant to the authority of the International Emergency Economic Powers Act. That act was intended for the exercise of emergency economic powers by the President, not for the routine enforcement of an export control regime. For that reason alone, I believe it is imperative that the EAA be reauthorized so that our export control system can be placed back under the appropriate law.

In addition, there are other serious consequences for continuing the enforcement of export controls pursuant to IEEPA. According to information provided to the Banking Committee by the Commerce Department, nothing in IEEPA is addressed to the matters covered by section 8 of the EAA—preventing cooperation by United States persons with the Arab boycott of Israel. The Government is asserting that the language of IEEPA is broad enough to support the antiboycott regulations, but this has been questioned and no court has yet ruled on the issue.

The administrative law judge of the Commerce Department, whose position is provided for in the EAA, has raised a number of problems posed by the lapse of EAA. These include whether he has authority to conduct administrative enforcement proceedings and whether there is authority for the position of under secretary of Commerce for Export Administration, which is created by the EAA.

In addition, there are significant differences in the penalty levels for violations of IEEPA and for violations of the EAA. IEEPA penalty levels are $10,000 for civil violations and $50,000 for criminal violations. The EAA civil

penalty level for violation of national security export controls is $100,000. EAA criminal penalties go up to the greater of $1 million or five times the export value. Both laws provide for imprisonment, but IEEPA lacks an export denial order provision.

Finally, section 12 of the EAA conferred needed investigative powers on Commerce's special agents for the execution of search warrants and arrests. There are no comparable provisions in IEEPA. As a result, the Commerce and Justice Departments have had to resort to the complicated process of having U.S. marshals deputize Commerce agents.

For all of these reasons, it is imperative that the Export Administration Act be reauthorized. The administration, through a letter from Commerce Secretary Brown which I am including for the RECORD, has requested a simple extension of the EAA. The bill before the Senate, H.R. 750, would provide a simple reauthorization of the EAA through June 30, 1994, at the same authorization level as provided for in last year's conference report.

There were several important provisions contained in last year's conference report which should be enacted into law. These included sanctions on countries which engage in the proliferation of nuclear weapons, a set of principles to guide the conduct of United States companies in the Peoples Republic of China, and a number of constructive reforms of the export control system. However, to attempt to reenact the conference report at this point would require an extensive review by the new administration and by the Congress. The immediate objective is to put the basic authority of the Export Administration Act back in place.

For that reason. Mr. President, I support the simple extension of the authority of the Export Administration Act contained in H.R. 750, and urge its adoption by my colleagues.

I ask unanimous consent that the letter from Ronald H. Brown be printed in the RECORD.

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

THE SECRETARY OF COMMERCE,
Washington, DC, February 12, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am advised that the Senate Committee on Banking, Housing and Urban Affairs will soon consider a bill that would extend for a short-term the Export Administration Act of 1979 (EAA) and authorize appropriations for fiscal years 1993–94 to administer the EAA, but would not otherwise amend the law.

The Administration supports a short-term extension of the EAA.

Since September 30, 1990, the Government has been required to control exports using the emergency authority granted to the President under the International Emergency Economic Powers Act (IEEPA). IEEPA is not ideally suited to serve for an extended period of time as the authority to administer our system of export controls. For this reason, I believe all interested parties would benefit from a renewal of the EAA.

More importantly, a short-term extension of the EAA would provide an opportunity for the Administration and the Congress to collaborate in a major refashioning of this statute—one that will not only reflect regulatory improvements already adopted by the Department of Commerce, but also reflect the enormous changes in world conditions that have occurred since the Act expired.

I look forward to working with you and the other Members of the Congress in formulating an effective EAA.

The Office of Management and Budget has advised that there is no objection to the submission of this letter to the Congress from the standpoint of the President's program.

Sincerely,

RONALD H. BROWN.

Mr. SASSER. Mr. President, I rise today in support of legislation to renew and extend the Export Administration Act [EAA] through June 30, 1994, and authorize appropriations for fiscal years 1993 and 1994. The EAA allows the President to control exports for the purposes of foreign policy, national security, and domestic short-supply.

The Export Administration Act expired on September 30, 1990, and has remained lapsed ever since. Although both the Senate and the House of Representatives passed reauthorization and reform legislation in the 101st Congress, President Bush's veto prevented renewal of the EAA. In the 102d Congress, the Senate passed a conference report on the EAA, but the House failed to pass it. As a result, the executive branch has operated the export control system by Executive Order under the authority of the International Emergency Economic Powers Act [IEEPA].

Earlier this month, Secretary of Commerce Ronald H. Brown wrote to the chairman of the Banking Committee in support of the temporary reauthorization legislation before the Senate today. In his letter, Secretary Brown pointed out that "IEEPA is not ideally suited to serve for an extended period of time as the authority to administer our system of export controls. For this reason, I believe all interested parties would benefit from a renewal of the EAA." Secretary Brown added that the administration recognizes the need to reform the EAA to "reflect the enormous changes in world conditions."

Indeed, the EAA was written to address our Nation's export concerns during the cold war. Today, the world landscape has changed significantly, and the EAA needs to change with it. Through reform of the EAA, we can better enable U.S. exporters to effectively participate in the world economy. Such reform will make U.S. firms more competitive in the global marketplace.

As the new chairman of the International Finance and Monetary Policy Subcommittee of the Banking Committee, I look forward to working with the chairman of the full committee, Senator RIEGLE, and the administration on developing an export control bill that will deal with the current realities and needs for export control.

Mr. D'AMATO. Mr. President, I rise in support of H.R. 750, an extension of the Export Administration Act of 1979. This important statute expired in September 1990. Since that time the Government has relied upon the International Emergency Powers Act to administer and enforce the system of export controls. I believe it is important to put the law back on the books. Exporters have been challenging the legitimacy of the emergency powers in the courts and without these authorities sensitive exports can go abroad unchecked.

The House of Representatives passed a simple extension of the act through June 30, 1994. I support the passage of this bill, but this legislation is only a temporary fix. The Congress will be considering a comprehensive rewrite of the Export Administration Act during the next year. Our world has changed drastically since the original legislation was crafted in the late 1970's. The containment of nuclear, chemical, and biological proliferation is now the primary goal of any export control policy and I strongly believe the Export Administration Act should be rewritten with these considerations in mind.

Last year, the Senate passed a conference report on the Export Administration Act, but the House of Representatives failed to pass the bill prior to the conclusion of the 102d Congress. The conference report recognized some of the changes which have occurred around the world. I would prefer that we act on the conference report; however, I also believe the President must have the clear authority to control the export of sensitive technologies as soon as possible. The interim step of a simple extension will give the President the requisite authority for export licensing.

Everyone is in agreement about the need for a rewrite of the basic statute, which will recognize the breakup of the Soviet Union. However, I am interested in going much further than simply adjusting the law to recognize the new world map. Last week, Senator MACK and I wrote to President Clinton in an effort to focus attention on the need to consider a change in how the executive branch is organized with respect to export licenses. Mr. President, I ask unanimous consent that the full text of the letter be printed in the CONGRESSIONAL RECORD, at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. D'AMATO. President Clinton responded to our letter. The President has acknowledged the need to review

the system of export controls and has requested a comprehensive review of the export control system. I applaud him for these efforts. I ask unanimous consent that the full text of the letter be printed in the CONGRESSIONAL RECORD, at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. D'AMATO. Mr. President, I was impressed by his interest in this complicated process and hope he continues to demonstrate a commitment to balancing our national security interests and the need for business to export products. I firmly believe that after reviewing the system of export licensing, President Clinton will recognize the necessity for changing the way our system functions.

While we await the outcome of the administration's review, I intend to introduce legislation in the near future which will look at the overall organization of the export licensing process. The proposal will address the major technology security challenges of the 1990's, including interagency gridlock over export policy, increasingly diverse proliferation problems in the Third World, and the growing economic security challenges facing the United States.

The present system of export controls is bound to create more failures and breakdowns, like the situation in Iraq. Our soldiers, or those of our allies, will needlessly face either our own technology, or that of our allies. The legislation I intend to propose will remove inherent conflicts in the present system. The legislation will reject the notion underlying the present system that debate among Commerce, Defense, and State can produce decisions characterized by the optimal balance of commercial, security, and foreign policy interests. It has become painfully clear that tough licensing decisions are never brought to a resolution, unless forced by overwhelming external pressure from Congress or our allies. Again, I state that the reasons for policy gridlock are endemic to the system and will remain until the system itself is reformed.

Mr. President, I am pleased the Senate is acting with dispatch upon this extension of the Export Administration Act. I would also continue to urge President Clinton to seriously consider not only a rewrite of the act, but also complete a reorganization of the export control system.

EXHIBIT 1

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, February 17, 1993.

Hon. BILL CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing in response to Secretary of Commerce Ronald H. Brown's, letter to us in support of an extension of the Export Administration Act of 1979 (EAA). Yesterday, the House of Representatives passed an extension of the Act through June 30, 1994, as a stop-gap measure, pending a comprehensive rewrite of the EAA. The Congress hopes to complete action on the rewrite prior to the expiration of the simple extension.

We intend to support the EAA extension when it comes before the Senate. However, as the Congress embarks on rewriting the EAA, it is important for us to know that the Administration is committed to a reorganization of the export control bureaucracy. We believe the current system is inadequate to deal with the new national security challenges.

As you know, the current export control system was designed to address the Cold War imperative of preventing the Soviet Union from acquiring militarily sensitive technologies. However well or poorly the system may have worked in the past, it is ill-equipped to deal with today's national security threats. The United States has a major interest in preventing additional countries from acquiring weapons of mass destruction, as the war with Iraq amply illustrates. Our current export control system, if not a complete failure in this area, falls short of meeting the goal of preventing the spread of nuclear, chemical and biological weaponry.

In the past, our export control system has been characterized by intense rivalries between departments with differing institutional approaches toward export controls. There is no incentive within the bureaucracy to refine the responsibilities for export control. The resulting bureaucratic maze has been difficult for exporters, and less than ideal for our national security.

We are profoundly skeptical the current system, split among Commerce, Defense, and State, will successfully balance today's commercial, security, and foreign policy interests. Tough issues are not resolved, unless forced by overwhelming external pressure from Congress or our allies. We believe the reasons for policy gridlock are endemic to the system and will remain, until the system is reformed.

Since each department has strong and entrenched interests in this area, we believe a comprehensive reorganization must come from a body which is able to mediate between departments and has the authority of the President, such as the National Security and National Economic Councils. We recognize many of the subcabinet appointees, who will be critical in designing the Administration's export control framework, are not yet in place. However, we would ask the Administration to propose a comprehensive reorganization plan.

We look forward to reviewing the Administration's goals for reorganization and we believe the effort will be best focussed by setting a deadline up front. We respectfully request the Administration commit to outlining a reorganization plan by the end of September, 1993. This date would enable Congress to hold hearings this fall and act upon legislation early next year, prior to expiration of the Act. If the Administration presents a reorganization plan by that time, it will facilitate Congress's job of rewriting the Export Administration Act.

We thank you for your attention to this important matter, and look forward to your response, and to moving forward with the bill to extend the Export Administration Act.

Sincerely,

ALFONSE D'AMATO.

CONNIE MACK.

EXHIBIT 2

THE WHITE HOUSE,
Washington, February 23, 1993.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Thank you for the co-signed letter with Senator Mack regarding an extension of the Export Administration Act (EAA). I appreciate your willingness to support a short-term extension of the EAA when it is considered by the Senate in the very near future. As Ron Brown, Secretary of Commerce, said in his recent letter to you, this short-term extension will provide an opportunity for the Administration and the Congress to collaborate in a major refashioning of our system of export controls.

I agree with you that recent changes in world conditions and relationships require that we do a thorough and comprehensive review of all aspects of the export control system. I also agree that the procedures used by the agencies charged with export control responsibilities should not make it more difficult for U.S. exporters to compete in international markets, so long as U.S. national security interests are adequately protected.

The Administration has not, at this point, discussed whether a reorganization of export control functions is necessary. I have, however, initiated a thorough review of the export control system and will make this review a top priority of the officials responsible for export control policy. We will seriously consider the option that you have presented, along with any other views on export controls that you may have, as we formulate our approach to a new EAA.

The Administration will consult with you and other members of Congress as we design and implement an export control system that is so critical for both the security and economic interests of the United States.

With best wishes,

Sincerely,

BILL.

I was impressed by your letter and look forward to working with you on this.

Mr. MURKOWSKI. Mr. President, the Senate is considering H.R. 750, the Export Administration Act [EAA]. I believe the Senate intends to act quickly on this bill, and I understand the reasons for doing so. There are many important provisions included within the EAA having to do with U.S. export controls which need to be reauthorized.

There is one provision of the bill which I do not believe should be reauthorized, and which, in fact, may be unconstitutional. I'm referring to the ban on the export on Alaska North Slope crude oil which is contained in the EAA.

Section 7(d) of the EAA totally prohibits the export of any oil which is transported through the trans-Alaska pipeline system, committing its entire through-put instead to domestic markets. Mr. President, this oil export ban is market distorting; it artificially holds down the price of both Alaska and California crude oil, it eliminates an opportunity to reduce our trade deficit, and it goes against the grain of the free market principles that the United States promotes throughout the

world. This legislation should not move forward without raising the issue of the inequity of this ban that severely affects Alaska North Slope oil.

The export ban has created a glut of oil on the west coast of the United States. California oil production combined with 85 percent of all the oil produced from Alaska's North Slope has flooded the west coast markets. This has artificially lowered the wellhead prices for crude oil from both Alaska and California. Excess California and Alaska oil production is sent to the gulf coast at increased transportation cost, again reducing wellhead prices. I say artificial because studies have indicated that in the absence of a ban, Alaska oil could be sold around the Pacific rim for as much as three dollars a barrel more than it is sold in California. Artificially depressed wellhead prices in California and Alaska means less exploration, less production, fewer jobs, and lower revenues to the Federal and State governments.

The Nation's domestic oil industry is struggling to survive. Rig counts are the lowest in decades. Oil exploration and development capital is sent overseas. Lower wellhead prices will make it less attractive to explore and invest in California and Alaska or to undertake expensive enhanced oil recovery projects from existing oil fields.

Export of Alaska's crude oil would help reduce the trade deficit. Alaska is geographically closer to Japan and other Pacific rim countries than the Middle Eastern countries that are their traditional source of crude oil. Our trade deficit with Japan alone was back up to $50 billion last year. Lifting the ban would be one way to contribute to reduction of the trade deficit.

Mr. President, 10 years ago, in 1983, the GAO conducted a study on the effects of the export ban on Alaska oil. The study came out largely in favor of lifting the ban.

But there is an even more fundamental and compelling reason for lifting the ban. Prohibiting the State of Alaska from obtaining the full value of its oil unconstitutionally discriminates against the State and denies Alaska its entitlement to the resources of the State. This is a right guaranteed by the Alaska Statehood Act. It is a right guaranteed by the constitutionally supported doctrine that all States share equal footing with all other States.

Mr. President this is a ban against export of oil from State lands, not Federal lands. This is a discriminatory ban against Alaska. Only Alaska has a total export ban on nearly all its oil. Only Alaska is deprived of the full benefits of ownership and economic use of its property. This is an infringement on the constitutional rights of the State of Alaska and it should not be tolerated by this Congress.

This ban has a very real economic impact on my State. Eighty-five percent of the State's annual budget is funded from oil royalties. The State receives a 12.5 percent royalty from the oil produced from State land. For every dollar that the price of oil goes down, the State of Alaska loses $130 million in yearly royalty revenue. A $3 decrease in the price of oil adds up to a loss of $390 million each year.

Mr. President, I have come to the floor prepared to offer an amendment to the EAA to exempt the State of Alaska's royalty share of oil produced from lands owned by the State of Alaska from the EAA's export ban. This would actually affect a very small amount of the oil currently covered by the export ban, about 100,000 barrels per day. My amendment would be a small, but important, step in the right direction toward allowing the oil producers in Alaska the same right to compete in the international marketplace that farmers and manufacturers, and even oil producers all over the country enjoy.

However, I will not offer my amendment at this time. The chairman and ranking member of the Banking Committee have assured me that the Alaska crude oil export prohibition, specifically the exemption for State royalty oil, will be in the course of hearings on the reauthorization of the EAA. I am pleased that this distinguished committee will take the time to fully consider the impacts of the ban and address this issue of unconstitutional discrimination against one State. I hope and expect that after a review of the facts, the committee will be persuaded to correct this injustice.

Mr. MACK. I am pleased to rise in support of this bill to extend the Export Administration Act until June 30, 1994. As my colleagues have stated, the EAA has been out of force for too long and must be temporarily extended as the Congress works on a comprehensive rewrite of the act.

Mr. President, our export control system is in drastic need of an overhaul. The current system was designed primarily to prevent the Soviet Union from acquiring militarily sensitive technologies. That was an important goal and the current system, as flawed as it was, made an important and under-recognized contribution toward winning the cold war.

The challenge of today, however, is very different. Today we must find a way to prevent aggressive dictatorships from acquiring military useful technologies while minimizing the regulatory burden on legitimate exporters. Neither task will be easy to accomplish, but we must do our best to accomplish both.

We now know from the U.N. inspection efforts that Iraq was less than 5 years away from developing a nuclear weapon before the invasion of Kuwait. It is sobering to think of the choices our President would have faced if Iraq had possessed nuclear weapons on the day of the invasion of Kuwait. Luckily, Saddam Hussein did not wait for his own crash nuclear program to succeed. It is now clear that one of the greatest national security challenges for the United States will be to prevent rogue dictatorships like Iraq from acquiring weapons of mass destruction and advanced missile technology.

At the same time, we must do a better job at easing the burden that our export control system imposes on legitimate exporters who are trying to compete in an increasingly high-technology and fast-paced global marketplace. The current system, divided between competing bureaucracies at the State, Commerce, and Defense Departments has recently improved, but is still an exporter's nightmare. Small businesses that cannot afford to have someone spend full time dealing with export licensing have been particularly disadvantaged by the current system.

I, along with the ranking member of the full Senate Banking Committee, Senator D'AMATO, wrote to President Clinton urging that administration embark on "a reorganization of the export control bureaucracy." We believe that a reorganization is necessary in order to better balance today's commercial, security, and foreign policy interests.

In his response to our letter, President Clinton wrote that he has "initiated a thorough review of the export control system and will make this review a top priority of the officials responsible for export control policy." I would like to take this opportunity to thank President Clinton for his quick and forthcoming response to our letter, and am pleased to accept his offer to work closely with the administration as they review this issue.

Mr. MURKOWSKI. Mr. President, it is my understanding that the Senate has pending on its calendar the reauthorization of the Export Administration Act [EAA] and that the chairman and ranking member of the Banking Committee—the committee of jurisdiction—hope to see the Senate pass favorably the EAA.

I understand and appreciate this imperative. Nonetheless, there is a provision in the EAA which profoundly affects Alaska, which I have discussed with Senators RIEGLE and D'AMATO, and of which every Senator ought to be made aware. The EAA contains the major statutory provision prohibiting the export of Alaskan North Slope crude oil.

There have been major studies completed by both private and Government sources that examine the economic effects of this export ban. I have a statement which I intend to make which goes into greater detail. But the issue I have raised with my colleagues from Michigan and New York is that this is something I believe the Senate needs to pursue.

I had come to the floor prepared to offer an amendment to the EAA to exempt the State of Alaska's royalty share of oil produced on lands owned by the State of Alaska which accounts for a very small amount of the oil currently covered by the export ban. Under my amendment, the State's royalty share could be sold abroad with the result that State revenues in Alaska would rise, and the price of oil on the west coast would more closely mirror the market price of oil.

I want to point out, Mr. Chairman, that should my amendment some day become law, the vast majority of Alaskan North Slope oil, about 1.5 mill/bd, would not be effected by the exemption.

It is my understanding that the EAA will need to be reauthorized again by mid-1994 and that this authorization will be the subject of hearings in the Banking Committee prior to that time. I would seek the Senator from Michigan to agree to dedicate a hearing, or dedicate part of a hearing, to discuss my proposal to exempt the State of Alaska's royalty share of oil produced on land owned by the State of Alaska from the oil export ban contained in the EAA, and would ask if the Senator from Michigan will agree to hold such a hearing or dedicate part of a hearing to this subject?

Mr. RIEGLE. Yes; I would be pleased to dedicate a panel of a reauthorization hearing on the EAA to discuss the proposed exemption to the oil export ban of the EAA for the State of Alaska's royalty share, as proposed by the Senator from Alaska.

Mr. MURKOWSKI. I thank the Senator. I would further request that I have an opportunity to testify at that hearing, and would ask that the chairman include the Governor of Alaska, and a representative of the petroleum industry impacted by the export prohibition, and that the chairman will request the administration, when it testifies on EAA reauthorization, to specifically address this issue. Is that acceptable to the chairman?

Mr. RIEGLE. Yes; that is acceptable. It would be my intention to ask the administration to testify on the matter and also have a balanced panel of witnesses that would include those cited by the Senator.

Mr. MURKOWSKI. I would like to pose the same questions to the Senator from New York, the ranking Republican of the Banking Committee. Is it acceptable to the Senator from New York to dedicate a hearing, or a portion of a hearing, to discuss my proposal to exempt the State of Alaska's royalty share of oil from State lands from the oil export ban contained in the EAA, and to ask that, when the administration testifies on EAA reauthorization, this issue will be specifically addressed?

Mr. D'AMATO. Yes; I would be pleased to join the chairman in dedicating a panel of a reauthorization hearing on the EAA to the subject of exempting the State of Alaska's royalty share of oil produced from State land from the oil export ban of the EAA, and would be pleased to join the chairman in inviting Alaska's Governor, and affected industry representatives, and in asking the administration to specifically address this issue when they testify on the EAA reauthorization.

Mr. MURKOWSKI. I thank the Senator from Michigan and the Senator from New York for accommodating my request.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Alabama [Mr. HEFLIN] as chairman of the Senate delegation to the North Atlantic assembly during the 103d Congress.

The Chair, on behalf of the Vice President, pursuant to 122 U.S.C. 276, as amended, appoints the Senator from California [Mrs. BOXER] as chairman of the Senate delegation to the Interparliamentary Union during the 103d Congress.

PENSION BENEFIT GUARANTY CORPORATION LEASE SETTLEMENTS ACT OF 1993

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 400, a bill to provide for the treatment of settlement agreements reached with the Pension Benefit Guaranty Corporation, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 400) to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreements reached with the Pension Benefit Guaranty Corporation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 81

(Purpose: To provide for the treatment of certain aircraft equipment settlement leases)

Mr. SIMPSON. Mr. President, I send a substitute amendment to the desk on behalf of Senator JEFFORDS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. JEFFORDS, proposes an amendment numbered 81:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aircraft Equipment Settlement Leases Act of 1993".

SEC. 2. TREATMENT OF AIRCRAFT EQUIPMENT SETTLEMENT LEASES WITH THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of any settlement of liability under title IV of the Employee Retirement Income Security Act of 1974 entered into by the Pension Benefit Guaranty Corporation and one or more other parties, if—

(1) such settlement was entered into before, on, or after the date of enactment of this Act,

(2) at least one party to such settlement was a debtor under title 11 of the United States Code, and

(3) an agreement that is entered into as part of such settlement provides that such agreement is to be treated as a lease,

then such agreement shall be treated as a lease for purposes of section 1110 of such title 11.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 81) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 400

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 "Aircraft Equipment Settlement Leases Act of 1993".

SEC. 2. TREATMENT OF AIRCRAFT EQUIPMENT SETTLEMENT LEASES WITH THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of any settlement of liability under title IV of the Employee Retirement Income Security Act of 1974 entered into by the Pension Benefit Guaranty Corporation and one or more other parties, if—

(1) such settlement was entered into before, on, or after the date of the enactment of this Act,

(2) at least one party to such settlement was a debtor under title 11 of the United States Code, and

(3) an agreement that is entered into as part of such settlement provides that such agreement is to be treated as a lease,

then such agreement shall be treated as a lease for purposes of section 1110 of such title 11.

Mr. INOUYE. I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, over the past few hours, I have discussed with the

distinguished Republican leader, the managers of the bill, the Senators from Kentucky, and others, the status and prospects for the pending bill, the voter registration legislation.

The current status and my suggestion for dealing with it is as follows: Within the hour, we have received from our Republican colleagues a package of amendments, I believe eight in number, and those are now being reviewed by staff and Senators on the Democratic side. It is not possible to reach a decision with respect to those amendments this evening, and at my suggestion the distinguished Republican leader and the managers have agreed that the managers and staff will meet tomorrow to discuss these amendments to see if it is possible to reach agreement on them.

The Senate will not be in session tomorrow, but the Senate will come into session on Monday. By that time, we anticipate it will be clear whether or not an agreement can be reached. If an agreement has been reached, then we can proceed to dispose of those, either having them accepted or having record votes set for Tuesday. If an agreement has not been reached, and it appears not possible to proceed any further on the bill for that reason, I would file cloture on Monday with the understanding that we will then have a cloture vote on Tuesday as opposed to the 2-day wait. And I am going to momentarily ask unanimous consent to be able to do that.

My hope is that we can reach agreement. I think it is likely that some of the amendments will be accepted, some not accepted, on others modifications will be suggested to them. This is going to require negotiation in good faith on both sides, and I am confident that will occur. It seems to me this is the best way to proceed because we clearly cannot reach a conclusion this evening. There has to be a time for good-faith negotiations. The best time to do that is tomorrow. And then by Monday, we will know where we are and either bring the bill to a conclusion on Tuesday or have a cloture vote and see if it is possible to bring it to a conclusion.

Mr. President, before I put the unanimous-consent request, I would like to yield to the distinguished Republican leader to ask if I have in any way misstated the circumstances or our discussion that he correct me, and ask him to make any other additional comments he wishes to make.

Mr. DOLE. Mr. President, the majority leader has correctly stated where we are now, what we propose to do. I am not certain we can accept any modification of the proposal or offer made by the majority leader. But I think in fairness we certainly have to take a look at the counterproposal. The distinguished Senator from Kentucky [Mr. MCCONNELL] is prepared to do that tomorrow.

I think we certainly can accommodate the unanimous-consent request. If cloture is filed on Monday, the vote would come on Tuesday.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I thank my colleague.

Accordingly, I ask unanimous consent that if a cloture motion is filed on the pending bill on Monday, the vote occur on Tuesday at a time to be set by the majority leader following consultation with the Republican leader, and with the live quorum to be waived.

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

Mr. MITCHELL. Mr. President, I had anticipated not being in tomorrow. I am advised that we have to be in to permit the Budget Committee to file its reported legislation, unless we get consent. I will put the consent, if that is agreeable to the Republican leader.

Mr. DOLE. We are checking.

Mr. MITCHELL. Mr. President, in either event, if we get consent, we will not be in. If we cannot get consent, we will come in for the purpose of allowing the report to be filed.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, pursuant to the previous discussion there will be no further rollcall votes today. There will be no rollcall votes tomorrow. We may be in session tomorrow depending upon whether or not I can obtain the consent for the filing of the concurrent budget resolution, and we will know that in a few moments as our colleagues are attempting to clear that.

I thank my colleagues for their cooperation. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AUTHORITY FOR COMMITTEE TO REPORT

Mr. FORD. Mr. President, I ask unanimous consent that the Budget Committee be permitted to file reported legislation relating to the concurrent budget resolution on Friday, March 12, from 5 p.m. until 7 p.m.

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

Mr. FORD. I thank the Chair.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. MACK] is recognized.

ORDER OF PROCEDURE

Mr. MACK. Mr. President, I ask unanimous consent to address the Senate as if in morning business not to exceed more than 5 minutes.

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

Mr. MACK. Thank you, Mr. President.

MFN RENEWAL FOR CHINA

Mr. MACK. Mr. President, in each of the last 3 years, I have argued against MFN renewal for China. I did so because it was the right thing to do.

In doing so, I opposed the President of my own party. We should not reward the butchers of Tiananmen Square. They should not have the same trade privileges that we extend to free nations.

I have made many statements in support of human rights in China. I was pleased to see candidate Clinton support the same principles. In his book, "Putting People First," he said:

> The Bush Administration erred by extending Most Favored Nation trade status to the People's Republic of China before it achieved documented progress on human rights.
>
> We should not reward China with improved trade status when it has continued to trade goods made by prison labor and has failed to make sufficient progress on human rights since the Tiananmen Square massacre.

But now, we are told that the administration will soften its campaign stance. Once again, President Clinton has broken his promise to the American people.

This time, however, it's not just the American people who are being betrayed. It is the over 1 billion Chinese striving for freedom and democracy in their own land.

He promised not to "coddle tyrants from Baghdad to Beijing," as he said at the Democratic Convention. But now, he wants to coddle Beijing's tyrants a little longer.

As Americans pursue their own dreams and hopes for the future, the President continues to litter their path with his broken promises.

He promised to lower taxes on the middle class. But now, his economic plan would raise taxes on those with incomes of $20,000 and up.

He promised not to raise taxes on gasoline. But now, his proposed Btu tax would increase the price of a gallon of gasoline through the back door, as well as raise the price of other energy sources.

He promised to lift the punitive earnings cap on social security recipients, and to enact the line-item veto to get rid of wasteful spending. But now, sadly, he is conspicuously silent on both.

The President has made many solemn promises and pledges during his campaign. America will judge him, and rightly so, on whether those pledges

are kept. Right now, however, those pledges are being abandoned at an alarming rate.

MURDER OF DR. DAVID GUNN

Mr. BRYAN. Mr. President, the murder yesterday of Dr. David Gunn while leaving his car to enter his medical clinic is heinous. Dr. Gunn was shot to death for the simple fact that he choose, as a physician, to provide legal abortion services.

Throughout my political career, I have been pro-choice, and I understand the intensely emotional aspects of the abortion issue for those on both sides of the issue. This country has always protected the rights of individuals to differ on an issue; such protection is the very foundation of our democracy. But that protection does not allow one individual to decide another individual will die, because they hold different positions on an issue.

In our diverse Nation, we must respect the views of all our citizens. The U.S. Constitution guarantees the right to freedom of speech. However, those who choose to publicly express their opinions must do so responsibly. Moreover, those who express their opinions must respect the rights of those individuals and organizations with whom they disagree.

In any instance where individuals react to the responsible expression of one organization with vehemence or, even worse, violence, then such individuals should be prosecuted to the fullest extent of the law. This applies to those who support as well as those who oppose abortion. As long as the law is being followed, individuals who choose abortion, and the physicians and other health care personnel who provide legal abortion services should not be threatened by those who disagree, and vice versa.

I am most troubled by yesterday's event. A physician who chooses to provide legal abortion services in the face of continual harassment of himself and his family is dead. A grieving family is without a father. This cannot be tolerated. The Senate must soon consider legislation to clarify the legal rights and limitations placed on abortion protests.

I extend my heartfelt sympathy to the family of Dr. David Gunn. And I pledge to do what I can to ensure such an act of violence never occurs again.

VIOLENCE AT ABORTION CLINICS

Mrs. BOXER. Mr. President, yesterday's shooting at the Pensacola Women's Medical Services Clinic is a tragic and outrageous chapter in the history of family planning clinic blockades.

Today, these blockades are no longer just peaceful expressions of disagreement. Clinics are bombed, vandalized and set on fire. The facilities are sprayed with butyric acid, a substance so foul smelling that those inside are forced to evacuate. Physicians' homes are picketed by antiabortion demonstrators, their names and addresses publicized on wanted posters and their lives, and the lives of their families, are threatened.

Decent Americans cannot allow this violence and horror to continue and we must move to ensure that it must not be repeated. The National Abortion Federation reported 186 such incidents of violence in 1992. They have reported 27 incidents just in the first 2 months of this year. In California this week, eight clinics in Riverside and San Diego Counties were sprayed with butyric acid and four health care workers were hospitalized for respiratory problems.

As an outgrowth of the Florida blockade, a dedicated physician was shot and killed in cold blood outside the clinic he was about to enter.

While at community meetings in my home State of California several weeks ago, I heard many distressing stories about the violence and threats directed at these health clinics. Choice Medical Group in Santa Cruz, CA, wrote to inform me of the frightening incidents they have experienced.

It is now the time to act. Antistalking laws, like the bill I have introduced to make stalking a Federal crime, can offer protection to health care workers when antiabortion protestors follow and threaten them.

But we need to go further to guarantee the safety of health care workers and the legal rights of women who choose to have an abortion. That is why I have pledged my support to Senator KENNEDY for upcoming legislation he will introduce to impose Federal penalties for antiabortion protestors who physically block access to clinics, or who commit actions which either permanently or temporarily render the facility unusable. I look forward to quick passage of this bill.

Violence has never solved any problem the world has faced. Let us join hands on all sides of the choice issue and end the violence.

MEASURE PLACED ON THE CALENDAR

The following measure, received from the House of Representatives for the concurrence on March 3, 1993, was read the second time and placed on the calendar:

H.R. 890. An act to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to improve the procedures for treating unclaimed insured deposits, and for other purposes.

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-637. A communication from the Acting Director of the United States Information Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-638. A communication from the Director of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-639. A communication from the Chairman of the Federal Reserve Center, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-640. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-641. A communication from the Acting General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-642. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-643. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-644. A communication from the Acting Assistant Secretary (Management), Department of the Treasury, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-645. A communication from the Executive Director for Government Affairs, Non-Commissioned Officers Association of the United States of America, transmitting, pursuant to law, the annual report of consolidated financial statements for calendar years 1991 and 1992; to the Committee on the Judiciary.

EC-646. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, notice relative to the economic stimulus proposals; to the Committee on Appropriations.

EC-647. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "The Location of Worst Case Needs in the Late 1980's"; to the Committee on Banking, Housing and Urban Affairs.

EC-648. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-649. A communication from the Acting Assistant Secretary (Environmental Restoration and Waste Management), Department of Energy, transmitting, pursuant to law, notice of a study relative to the safety of shipments of plutonium by sea; to the Committee on Environment and Public Works.

EC-650. A communication from the Acting Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, the annual report on Assistance Related to International Terrorism Provided by the U.S. Government to Foreign Countries; to the Committee on Foreign Relations.

EC-651. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the Disposition of Highly Enriched Uranium Previously Exported from the United States; to the Committee on Foreign Relations.

EC-652. A communication from the Director (Office of Congressional Affairs), Nuclear Regulatory Commission, transmitting, pursuant to law, a corrective page for a report on the Disposition of Highly Enriched Uranium Previously Exported from the United States; to the Committee on Foreign Relations.

EC-653. A communication from the Acting Comptroller of the Department of Defense, transmitting, pursuant to law, a report on Program Activities For Facilitation of Weapons Destruction and Non-Proliferation in the former Soviet Union for the period from the October 1, 1992 through December 31, 1992; to the Committee on Foreign Relations.

EC-654. A communication from the President and Chief Executive Officer, Corporation For Public Broadcasting, transmitting, pursuant to law, a report entitled "Public Broadcasting: Ready to Teach"; to the Committee on Commerce, Science, and Transportation.

EC-655. A communication from the President and Chief Executive Officer, Corporation For Public Broadcasting, transmitting, pursuant to law, a report entitled "Lifelines of Learning: Distance Education and America's Rural Schools"; to the Committee on Commerce, Science, and Transportation.

EC-656. 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 Environment and Public Works, to the Committee on Finance, and to the Committee on Foreign Relations.

EC-657. A communication from the Archivist of the United States, transmitting, pursuant to law, notice relative to the National Archives and Records Administration; to the Committee on Governmental Affairs.

EC-658. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the annual report for fiscal year 1992; to the Committee on Governmental Affairs.

EC-659. A communication from the Office of the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC-660. A communication from the Acting Assistant Attorney General (Office of Legislative Affairs), Department of Justice, transmitting, pursuant to law, the Attorney General's report on the Civil Rights of Institutionalized Persons Act for fiscal year 1992; to the Committee on the Judiciary.

EC-661. A communication from the Acting Director of Administration and Management, Department of Energy, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 80. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor Unit, the Big Sandy Corridor unit, and the Canyonlands Unit (Rept. No. 103-9).

S. 164. A bill to authorize the adjustment of the boundries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes (Rept. No. 103-10).

S. 214. A bill to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict (Rept. No. 103-11).

S. 252. A bill to provide for certain land exchanges in the State of Idaho, and for other purposes (Rept. No. 103-12).

S. 275. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico, and for other purposes (Rept. No. 103-13).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 326. A bill to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes (Rept. No. 103-14).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 328. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes (Rept. No. 103-15).

S. 344. A bill to direct the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors in the State of Wisconsin as a National Heritage Corridor, and for other purposes (Rept. No. 103-16).

S. 375. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 103-17).

S. 433. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes (Rept. No. 103-18).

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. WELLSTONE:

S. 562. A bill to amend the Fair Labor Standards Act of 1938 to increase and index the Federal minimum wage relative to the average hourly earnings for private, non-agricultural workers, and for other purposes; to the Committee on Labor and Human Resources.

(By Ms. MOSELEY-BRAUN (for herself, Mr. SHELBY, and Mr. MCCONNELL):

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; 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. FORD (for himself and Mr. STEVENS):

S. 564. A bill to establish in the Government Printing Office a means of enhancing electronic public access to a wide range of Federal electronic information; to the Committee on Rules and Administration.

By Mr. WARNER (for himself and Mr. HELMS):

S. 565. A bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DURENBERGER, and Mr. BINGAMAN):

S. 566. A bill to amend title 5, United States Code, to provide that service performed by air traffic second-level supervisors and managers be made creditable for retirement purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ROBB, Mr. WOFFORD, and Mr. SPECTER):

S. 567. A bill to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN (for himself, Mr. MCCAIN, and Mr. GORTON):

S. 568. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KERREY (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. EXON, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, Mr. WELLSTONE, Mr. GRASSLEY, and Mr. DORGAN):

S. 569. A bill to amend the Agricultural Act of 1949 to improve the farmer owned reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself, Mr. EXON, Mr. DOLE, Mr. KERRY, Mr. BRYAN, Mr. PRESSLER, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mr. HATCH, Mr. THURMOND, Mr. SIMON, Mr. KOHL, Mr. BROWN, Mr. PRYOR, Mr. SASSER, Mr. CONRAD, Mr. WOFFORD, Mr. BOND, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. SMITH, Mr. HARKIN, Mr. D'AMATO, Mr. BINGAMAN, Mr. BUMPERS, Mr. NICKLES, Mr. COCHRAN, Mr. DURENBERGER, Mr. DASCHLE, Mr. MURKOWSKI, Mr. SHELBY, and Mr. RIEGLE):

S. 570. A bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself, Mr. MCCAIN, Mr. HELMS, Mr. GRASSLEY, Mr. DANFORTH, Mr. STEVENS, Mr.

KEMPTHORNE, Mr. SHELBY, Mr. LUGAR, Mr. PACKWOOD, Mr. COHEN, and Mr. GORTON):

S. 571. A bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. MCCAIN, Mr. GRASSLEY, Mr. DANFORTH, Mr. STEVENS, Mr. KEMPTHORNE, Mr. COCHRAN, Mr. LEVIN, Mr. SHELBY, Mr. LUGAR, Mr. PACKWOOD, Mr. COHEN, and Mr. GORTON):

S. 572. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals; to the Committee on Finance.

By Mr. BREAUX (for himself, Mr. DORGAN, Mr. CONRAD, Mr. DURENBERGER, Mr. BOREN, Mr. DANFORTH, and Mr. BAUCUS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to provide for a credit for the portion of employer social security taxes paid with respect to employee cash tips; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. THURMOND, Mr. BIDEN, Mr. BROWN, Mr. DECONCINI, Mr. HEFLIN, Mr. KOHL, Mr. GRASSLEY, Mr. JEFFORDS, Mr. WOFFORD, Mr. BUMPERS, and Mrs. FEINSTEIN):

S. 574. A bill to amend the National Cooperative Research Act of 1984 with respect to joint ventures entered into for the purpose of producing a product, process, or service; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. METZENBAUM):

S. 575. A bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. CAMPBELL, Mr. DECONCINI, Mr. BOREN, Mr. WELLSTONE, and Mr. DORGAN):

S. 576. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN:

S. 577. A bill to resolve the status of certain lands relinquished to the United States under the Act of June 1897 (30 Stat. 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BENNETT, Mr. BOND, Mr. BRADLEY, Mr. BUMPERS, Mr. CAMPBELL, Mr. DANFORTH, Mr. DASCHLE, Mr. EXON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. SPECTER, Mr. WELLSTONE, Mr. WOFFORD, and Mr. KOHL):

S. 578. A bill to protect the free exercise of religion; to the Committee on the Judiciary.

By Mr. SMITH:

S. 579. A bill to require Congress to comply with the laws it imposes on others; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 580. A bill to enhance the competitiveness of the United States in the global economy through the establishment of Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SIMON:

S.J. Res. 63. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

By Mr. BROWN:

S.J. Res. 64. A joint resolution to designate June 5, 1993, as "National Trails Day"; 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. FEINGOLD:

S. Res. 79. A resolution expressing the Sense of the Senate concerning the United Nation's arms embargo against Bosnia-Herzegovina, a nation's right to self-defense, and peace negotiations; to the Committee on Foreign Relations.

By Mr. PRESSLER:

S. Con. Res. 17. A concurrent resolution expressing the sense of the Congress that ethanol and mass fuels other than ethanol not be subject to any new energy tax; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 562. A bill to amend the Fair Labor Standards Act of 1938 to increase and index the Federal minimum wage relative to the average hourly earnings for private, nonagricultural workers, and for other purposes; to the Committee on Labor and Human Resources.

FAIR MINIMUM WAGE GUARANTEE ACT OF 1993

• Mr. WELLSTONE. Mr. President, today I am introducing the Fair Minimum Wage Guarantee Act of 1993. This measure would gradually restore the value of the Federal minimum wage to a level approaching that necessary to provide for a decent standard of living for our poorest workers and their families. It would also ensure that the minimum wage no longer erodes as a result of inflation, congressional inaction, or some combination of both, by permanently tying the minimum wage to a traditional index: one-half of average hourly U.S. private sector wages.

General erosion in wages and living standards has become a fact of life for many Americans, with the average inflation-adjusted wage for private sector workers now at its lowest level since the 1960's. President Clinton's recently announced plan for job creation generated by sustained increases in public and private investment is designed to reverse this erosion in real wages and to combat falling living standards. I support this public investment approach, and I am grateful that the President has consistently expressed his support for increasing and indexing the minimum wage as a critical part of his economic plan.

The problem of declining wages and living standards are especially acute for America's low-wage workers. In the past 15 years, the purchasing power of the Federal minimum wage has declined substantially. As a consequence, it is no longer effective in helping to lift the poor out of poverty and to provide a viable alternative to dependence on public assistance.

I have witnessed the results of eroding wages and living standards as I have travelled throughout Minnesota during the last 2 years, talking with workers in cafes, fast-food restaurants, convenience stores, offices, and other places where large numbers of minimum-wage workers are employed. Over and over, I have heard from Minnesotans that they can't make it without a decent wage, and modest health care benefits. But most low-paying jobs provide neither. People are being overwhelmed by these bread-and-butter economic issues. Restoring the value of the minimum wage to a reasonable level, and indexing it thereafter, would at least begin to help address this problem.

Women and minorities are disproportionately affected by a low Federal minimum wage. Women are 63 percent of minimum wage workers, but only about 50 percent of the work force. Almost half a million women who are single and maintain families do so on the minimum wage or less, at a time when a full-time minimum wage worker with one child is below the poverty level. Almost 900,000 African-American workers—1 out of every 9—are minimum wage workers, Over 650,000 Hispanics work at the minimum wage—1 of every 9 Hispanic workers.

Coupled with appropriate Federal and State income support programs, such an increase could help lift many Americans out of poverty. But let there be no mistake. The Federal minimum wage is not a welfare program. It is not a public benefit. It is one of our most important Federal labor standards, requiring a reasonable hour's pay for an hour's work. This bill simply underscores our commitment to that Federal labor standard, and to restoring its historical value.

Let me try to illustrate these declining wage and living standard trends with some historical data. Based in part on CPI-U changes since January 1978, the Congressional Research Service [CRS] has estimated that by 1996 the minimum wage would have to be over $6.75 per hour to equal the purchasing power it had in 1978.

In 1978 it was possible for a full-time year-round worker earning the minimum wage to support a family of three at 6 percent above the poverty level. In 1993, such a worker will earn an estimated 23 percent below the three-person poverty line. A recent Census Bureau report found that the number of full-time minimum wage workers who did not even meet the family poverty line standard increased by almost 50 percent between 1979 and 1990. And don't believe the old saw that most minimum wage workers are teenagers: Fully 90 percent of American workers at or below the minimum wage are adults.

An equally troubling picture emerges when the minimum wage is viewed as a percentage of average wages for all nonfarm, nonsupervisory private workers—the traditional index calculated by the Department of Labor. During the 1960's, the minimum wage generally stayed at or slightly over 50 percent of the average wage for such workers. By 1992, it was estimated to be only 40 percent. However you look at it, minimum wage workers are falling further and further behind.

But as disturbing as these statistics are, they do not convey the complete picture. When comparing the earnings of minimum wage workers both to the poverty line and the average hourly nonsupervisory wage, it is often assumed that the minimum wage employee works 40 hours per week, 52 weeks a year. But most minimum wage employees don't work year-round, and therefore are typically much further below the poverty line than the data suggest. Even if comparisons between the average worker and minimum wage workers accounted for this problem, they would still have to account for the fact that many middle-class American workers have fringe benefits ranging from health insurance to pensions and paid vacations, while most low-wage workers do not.

Mr. President, there is little doubt that the growing gap between the minimum wage and a living wage has a corrosive effect on our society, contributing to a variety of social ills and exacerbating the economic problems of our urban and rural poor. The negative effects on the family and society at large of a minimum wage that is even too low to enable families with children headed by two-minimum wage workers to support themselves are very serious.

For example, older children may be compelled to work to raise family income when they should be in school or studying, latch-key children are left without adult supervision because low-wage workers cannot afford child care, and crime and other antisocial behaviors become tempting alternatives to regular employment when only low-wage jobs are available. Finally, businesses suffer when low-income workers don't have the income or buying power to get what they need. While an increase in the Federal minimum wage does not completely solve these problems, it would help to alleviate them. For this reason, I believe it should be incorporated into the legislation embodying President Clinton's economic plan to be considered later this year.

The Fair Minimum Wage Guarantee Act of 1993 has two essential elements. First, it provides for an increase in the Federal minimum wage to $6.75 per hour in four annual increments to make up for historical erosion in the value of that wage: to $4.85 on September 1, 1993, $5.55 on September 1, 1994, $6.20 on September 1, 1995, and $6.75 on September 1, 1996. Such a gradual restoration of the purchasing power of the minimum wage to its level during the late 1970's prevents the potential economic shock which could be caused by enacting such a large increase immediately.

Second, and as important, the legislation seeks to break the cycle of minimum wage hikes enacted at irregular intervals by the Congress by providing for annual indexation, beginning September 1, 1997. Thereafter, increases in the minimum wage would be automatic, tied to the traditional index of 50 percent of the average hourly earnings for nonfarm, nonsupervisory private workers. Indexing would substitute modest annual increases in the minimum wage consistent with general wage trends for large, belated, and sometimes inadequate adjustments by the Congress.

This bill would benefit millions of low-income working people whose interests are too seldom taken into account by Congress. They have the pride, dignity, and determination to want to work, even at low-paying jobs that are undervalued by society at large. These people look to us for help and need us to champion their interests.

In recent months, we've all been encouraged by signs of modest economic recovery, including a rise in housing starts and sales, increasing consumer confidence, and a 3.8 percent annualized rate of GDP growth during the last quarter. Unfortunately, the real incomes of the poor tend to be affected little by economic upturns. A rising tide may lift most boats, but the boats of the working poor are very leaky. Providing a decent Federal minimum wage is key to a more comprehensive effort to restore a decent standard of living for low-income Americans. I urge my colleagues to join me by cosponsoring this important measure.

I ask unanimous consent that the text of the bill be printed following my statement.

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

S. 562

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 "Fair Minimum Wage Guarantee Act of 1993".

SEC. 2. FINDINGS AND POLICIES.

Congress finds that—

(1) after more than 9 years during which the minimum wage remained fixed at $3.35 per hour, Congress passed and the President signed in November 1989 the Fair Labor Standards Amendments of 1989 (Public Law 101–157) which raised the minimum wage to $3.80 per hour after April 1, 1990 and to $4.25 per hour after April 1, 1991;

(2) the modest increases in the minimum wage in 1990 and 1991 did little to address the substantial erosion in the purchasing power of the minimum wage over the past 15 years;

(3) based on changes in the Consumer Price Index-Urban, the minimum hourly wage would have to be increased to $6.16 on September 1, 1993 and to $6.83 on September 1, 1996 in order to have the same purchasing power it had on January 1, 1978 when the minimum wage was $2.65 an hour;

(4) the minimum wage in 1978 was 47 percent of the average private wage in the nonagricultural sector, but in 1992 was estimated to be only 40 percent of the average wage and will be subject to continuing erosion without indexing;

(5) from the late 1970's through 1992, the after-tax average family income of the richest 1 percent of the population rose by 136 percent, while the after-tax average family income of the poorest one-fifth of the population fell 12 percent;

(6) it remains in the interest of the American people to ensure that our lowest-paid workers are paid a living wage the value of which does not continually erode;

(7) a four-step phased increase in the minimum wage will restore its value to a level approaching that of 1978, increase incentives for the poor to seek and retain jobs, and help to mitigate poverty in inner city communities that have a disproportionate share of low-wage and unskilled workers;

(8) increasing the minimum wage by an increment of $0.60 beginning on September 1, 1993, followed by an increment of $0.70 an hour effective on September 1, 1994, an increment of $0.65 an hour effective September 1, 1995, and an increment of $0.55 an hour effective September 1, 1996, will bring the minimum wage to $6.75 an hour, an amount approximating that needed to restore the minimum wage to the value it had in 1978; and

(9) indexing is needed to prevent continual erosion in the value of the minimum wage and to substitute modest annual increases in the minimum wage consistent with general wage trends for large, belated, and sometimes inadequate adjustments by the Congress.

SEC. 3. MINIMUM WAGE INCREASE AND INDEXATION.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section—

"(A) not less than—

"(i) $4.25 an hour during the period ending on August 30, 1993;

"(ii) $4.85 an hour during the year beginning on September 1, 1993;

"(iii) $5.55 an hour during the year beginning September 1, 1994;

"(iv) $6.20 an hour during the year beginning September 1, 1995; and

"(v) $6.75 an hour during the year beginning September 1, 1996; and

"(B) with respect to the year beginning on September 1, 1997, and each such succeeding year, not less than the amount applicable under this paragraph adjusted on June 1 of such year to equal 50 percent of the monthly average hourly earnings for nonfarm, nonsupervisory private workers for the proceeding 12 months, as determined by the Bureau of Labor Statistics, rounded to the nearest multiple of $0.05, except that any amount determined under this subparagraph shall not be less than the amount applicable under this paragraph for the proceeding year;".●

By Ms. MOSELEY-BRAUN (for herself, Mr. SHELBY, and Mr. MCCONNELL):

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; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

MANDATES COST DISCLOSURE LEGISLATION

Ms. MOSELEY-BRAUN. Mr. President, I come to the Senate from a background in State and local government. One issue that gets a lot of discussion in State capitals, and in local government circles, is the issue of Federal mandates, that is, Federal requirements that impose additional costs on State and local governments.

State and local officials believe their budgets are unduly pressured because the Federal Government has pushed additional requirements on State and local governments, without the funding necessary to cover the additional costs. Given the level of concern among State and local government officials, I expected to arrive in Washington to find that the Federal Government was addressing the issue.

Instead, to my great surprise, most of the Federal establishment appears to be totally unaware of the impact that Federal mandates have on State and local governments. In fact, I was surprised to find that the situation is even worse than that. There is almost a total absence of information on the mandates issues, and much of the Government does not even know what a mandate is. We searched, for example, Mr. President, for information regarding the costs of specific program items on State and local governments and discovered that that information was nowhere to be found.

The legislation I am introducing today is a first step toward addressing the mandates issue. It does not prohibit the Federal Government from issuing new mandates, nor does it repeal any existing Federal mandates. Instead, it simply requires that the Senate have information on any mandates in proposed legislation before it when the legislation is considered by the full Senate.

The legislation adds a section to committee reports on proposed bills. This new section, which would be prepared by the Congressional Budget Office, would include information on: First, the cost to State and local governments of complying with any Federal mandates in the reported bill; and second, the extent to which Federal funds, either contained in the bill or otherwise, cover the costs of complying with the mandates. In addition, the legislation requires the Congressional Budget Office to issue an annual report on the cumulative costs of complying with Federal mandates in all enacted bills, together with an analysis of the extent to which Federal funds cover the costs of complying with the mandates.

For purposes of the CBO analysis, a Federal mandate is a provision in a reported or enacted bill that: Requires the creation or expansion of a State and/or local service or activity; requires standards different from existing State and/or local law or practice in delivering a service or in conducting an activity; creates additional personnel or other administrative costs for State and/or local Governments; or requires contracting procedures different from or in addition to those required under existing State and/or local law or practice.

Senate reports already require a CBO analysis of the proposed reported legislation's impact on the Federal budget. In addition, committee reports are required to contain information on the regulatory impact of proposed reported bills on businesses and individuals. This legislation fills in the remaining major gap—the impact of the legislation on State and local governments.

I am well aware, Mr. President, of the budget pressures that have encouraged the Federal Government to add mandates on State and local governments, and I am not suggesting that every mandate is inappropriate. I do believe, however, that the Senate should know what it is doing, that it should know the impact a proposed bill has on State and local governments, so that Senators can cast informed votes. This bill will shed some light—sunshine, if you will—on the process, and on the real and practical effects on our actions here.

I hope my colleagues will agree that the Senate should have information on the impact Federal mandates have on State and local governments, and that the time to have that information is before the Senate votes on bills on the floor. I urge the Senate to promptly enact this simple but necessary piece of legislation.

Mr. President, I ask unanimous consent that a copy of the bill be included at this point in the RECORD.

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

S. 563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(i) FEDERAL MANDATES.—

"(1) The Director shall analyze each bill or joint resolution reported in the Senate or the House of Representatives to determine—

"(A) the cost to State and local governments of complying with any Federal mandates in the reported bill or joint resolution; and

"(B) the extent to which Federal funds, either in the bill or joint resolution, or otherwise, cover the costs of complying with the mandates.

"(2) The Director shall annually determine the cumulative costs of complying with Federal mandates in all bills or joint resolutions enacted in the preceding year and the extent to which Federal funds cover the costs of complying with the such mandates.

"(3) For purposes of this subsection, the term 'Federal mandate' means a provision that—

"(A) requires creation or expansion of a State or local service or activity;

"(B) requires standards different from State or local law or practice in delivering a service or in conducting an activity;

"(C) creates additional personnel or other administrative costs for State and local governments; or

"(D) requires contracting procedures different from or in addition to those required under State or local law or practice.".

SEC. 2. REPORT REQUIRED FOR SENATE CONSIDERATION.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c) by striking "(a) and (b)" and inserting "(a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

"(c) Each such report shall also contain an evaluation by the Congressional Budget Office of any Federal mandates in the bill or joint resolution as required by section 202(i) of the Congressional Budget Act of 1974.".

By Mr. FORD (for himself and Mr. STEVENS):

S. 564. A bill to establish in the Government Printing Office a means of enhancing electronic public access to a wide range of Federal electronic information; to the Committee on Rules and Administration.

GOVERNMENT PRINTING OFFICE ELECTRONIC INFORMATION ACCESS ENHANCEMENT ACT OF 1993

Mr. FORD. Mr. President, I am pleased today to introduce with the senior Senator from Alaska [Mr. STEVENS] the Government Printing Office Electronic Information Access Enhancement Act of 1993. This legislation will greatly enhance free public access to Federal electronic information.

The bill requires the Superintendent of Documents at the Government Printing Office to provide an online

CONGRESSIONAL RECORD and Federal Register free to depository libraries and at the incremental costs of distribution to other users. The bill allows other documents distributed by the Superintendent of Documents to be added online as practicable and permits agencies to voluntarily disseminate their electronic publications through the same system.

I believe this bill goes a long way toward ensuring that taxpayers have affordable and timely access to the Federal information which they have paid to generate.

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. 564

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 "Government Printing Office Electronic Information Access Enhancement Act of 1993".

SEC. 2. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) IN GENERAL.—Title 44, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 41—ACCESS TO FEDERAL ELECTRONIC INFORMATION

"Sec.
"4101. Electronic directory; online access to publications; electronic storage facility.
"4102. Fees.
"4103. Biennial report.
"4104. Definition.

"§ 4101. Electronic directory; online access to publications; electronic storage facility

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, shall—

"(1) maintain an electronic directory of Federal electronic information;

"(2) provide a system of online access to the Congressional Record, the Federal Register, and, as determined by the Superintendent of Documents, other appropriate publications distributed by the Superintendent of Documents; and

"(3) operate an electronic storage facility for Federal electronic information to which online access is made available under paragraph (2).

"(b) DEPARTMENTAL REQUESTS.—To the extent practicable, the Superintendent of Documents shall accommodate any request by the head of a department or agency to include in the system of access referred to in subsection (a)(2) information that is under the control of the department or agency involved.

"(c) CONSULTATION.—In carrying out this section, the Superintendent of Documents shall consult—

"(1) users of the directory and the system of access provided for under subsection (a); and

"(2) other providers of similar information services.

The purpose of such consultation shall be to assess the quality and value of the directory and the system, in light of user needs.

"§ 4102. Fees

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, may charge reasonable fees for use of the directory and the system of access provided for under section 4101, except that use of the directory and the system shall be made available to depository libraries without charge. The fees received shall be treated in the same manner as moneys received from sale of documents under section 1702 of this title.

"(b) COST RECOVERY.—The fees charged under this section shall be set so as to recover the incremental cost of dissemination of the information involved, with the cost to be computed without regard to section 1708 of this title.

"§ 4103. Biennial report

"Not later than December 31 of each odd-numbered year, the Public Printer shall submit to the Congress, with respect to the two preceding fiscal years, a report on the directory, the system of access, and the electronic storage facility referred to in section 4101(a). The report shall include a description of the functions involved, including a statement of cost savings in comparison with traditional forms of information distribution.

"§ 4104. Definition

"As used in this chapter, the term 'Federal electronic information' means Federal public information stored electronically.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"41. Access to Federal Electronic Information ..... 4101".

SEC. 3. STATUS REPORT.

Not later than June 30, 1994, the Public Printer shall submit to the Congress a report on the status of the directory, the system of access, and the electronic storage facility referred to in section 4101 of title 44, United States code, as added by section 2(a).

SEC. 4. SPECIAL RULES.

(a) OPERATIONAL DEADLINE.—The directory, the system of access, and the electronic storage facility referred to in section 4101 of title 44, United States Code, as added by section 2(a), shall be operational not later than one year after the date of the enactment of this Act.

(b) FIRST BIENNIAL REPORT.—The first report referred to in section 4103 of title 44, United States Code, as added by section 2(a), shall be submitted not later than December 31, 1995.

By Mr. WARNER (for himself and Mr. HELMS):

S. 565. A bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations; to the Committee on Finance.

THE TRUTH IN TAX-EXEMPT GIVING ACT

Mr. WARNER. Mr. President, I rise this morning to introduce a bill entitled the "Truth in Tax Exempt Giving Act." This is a repeat of the legislation that I introduced last year.

The purpose of my bill is simply to draw back the curtains of these charitable organizations and allow some light to come into the organizations. Only in that way can the American public examine these organizations which indirectly receive a tax subsidy from the American people by virtue of the tax law which allows a deduction for contributions.

Again, yesterday morning, regrettably, an article appeared in the paper about the United Way. The United Way gave rise to this legislation which I introduced last year, but as you know, that legislation was attached to a tax bill that did not become law. Therefore, Mr. President, I renew the effort this year not simply because yesterday we had the discouraging news about the United Way although I must add, United Way is now under the direction of a new executive officer and it is our hope that that distinguished individual can turn around this most important organization—but because it highlights the need for a law to pull back the curtains and allow the light to flow, such that the American public can better understand these institutions to which they donate their hard-earned dollars to with great feeling in their hearts to help others less fortunate than themselves.

Mr. President, I ask that the text of the bill and my full statement be inserted in the RECORD, as well as a copy of yesterday's Washington Post article to which I referred. I yield the floor.

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

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED DISCLOSURE TO DONORS BY TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any organization described in section 501(c)(3) or 501(c)(4) and any separate segregated fund described in section 527(f)(3) maintained by such organization, which is subject to the requirements of subsection (a) shall—

"(A) advise each contributor of the availability of a disclosure statement described in paragraph (3), and

"(B) shall furnish such statement upon written request to—

"(i) such contributor, or

"(ii) any potential contributor,

within 30 days of such request.

"(2) EXCEPTION.—Paragraph (1) shall not apply to—

"(A) any organization described in clause (ii) or (iii) of section 170(b)(1)(A)), or

"(B) any organization the gross receipts of which in each taxable year are normally not more than $100,000.

"(3) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds $100,000.

"(4) PROCESSING FEES—Any organization furnishing a disclosure statement under this subsection may require that a self-addressed, stamped envelope and a fee not to exceed $2 to cover the costs of copying and mailing such statement be included in the written request for such statement."

(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) of the Internal Revenue Code of 1986 (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATEMENT.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements $50 for each day during which such failure continues."

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

STATEMENT BY SENATOR JOHN WARNER ON THE TRUTH IN TAX-EXEMPT GIVING ACT

Mr. President, I stand before the Senate once again to introduce legislation that, I suspect by this time, is familiar to most of my colleagues. The legislation I speak of is the Truth in Tax-Exempt Giving Act which I introduced as a free-standing bill last Congress, and later attached as an amendment to H.R. 11. The amendment was accepted by the Senate and included in that omnibus tax bill, however the majority of it was dropped by the conference committee, and, of course, the tax bill was ultimately vetoed.

But, Mr. President, as I indicated on this floor at the end of the 102d Congress, I remain committed to this legislation and am therefore reintroducing the bill in the same form as it appeared last Congress.

We must restore the faith of the American people in good and honest charities, and, at the same time, protect hard-working Americans from having their contributions squandered by corrupt sham organizations. That's what this legislation seeks to accomplish.

Just yesterday there was an article in the front section of the Washington Post entitled, "A Year Later, United Way Still Faces Investigations, Morale Problems." Yes, Mr. President, the problems have not gone away, and it is more clear than ever to this Senator that legislation is required to try and avert future problems.

In a nutshell, my legislation would amend the Internal Revenue Code to require tax-exempt organizations, namely those falling under sections 501(c)3 and 501(c)4, to inform donors and potential donors of the availability of a financial disclosure form, and make such form available to the individual upon request. My bill would also require these organizations to list their five top paid employees, as well as all employees making over $100,000.

Mr. President, when it comes to charitable giving, Americans have a history of digging deeply into their pockets. According to the umbrella group Independent Sector, 75 percent of all households in the United States contribute to charities. Between 1955 and 1980, giving increased at an annual rate of 3.3 percent, from $34.5 to $77.5 billion. But, between 1980 and 1989, giving increased to $121 billion. But, between 1980 and 1989, giving increased to $121 billion, an annual rate of increase of 5.1 percent. These figures indicate a growth rate 55 percent higher than in the preceding 25 years.

What this tells me, Mr. President, is that people have it in their heart and want to give; it is therefore imperative that they retain confidence in the organizations to which they contribute.

As my colleagues may recall, my interest in introducing the legislation last year stemmed from reports of the excessive salaries, limousine service, first-class airfares, and luxury trips that the head of the United Way, William Aramony, was enjoying.

While that high lifestyle may be the norm in some private sector companies, I don't believe the public parts with its hard-earned dollars in order to provide presidents of charitable organizations with salaries and lifestyles far more lavish than those of the donors.

Unfortunately, this was not an isolated incident. Following the United Way scandal, numerous reports surfaced regarding other charities, including names familiar to all of us. Last year I cited examples of spending abuses within some of these organizations, including the American Cancer Society. I received calls and letters from that organization regarding the allegations, and I would like to clarify for the record that they remain a reputable and esteemed organization, worthy of donor dollars.

I must also note for the record, Mr. President, that the United Way of America is now under new management, headed by the very able Elaine Chao, and, through my meetings with several of the new representatives, I feel reassured that the abuses are being eliminated. However donors would benefit from having the veil lifted on the financial dealings of all charitable organizations, so that such problems do not reoccur.

There is an ingrained perception of charitable organizations as philanthropic groups devoted to the public good. In fact, charities are often judged more by their good intentions than their actual deeds, thus escaping close public oversight into their personal and financial dealings. However, to hear that the head of the quintessential symbol of all charitable giving, the United Way, enjoyed such an excessive lifestyle, financed mainly by charitable contributions, woke many people up and made them realize that the righteousness of the cause doesn't assure the integrity of their conduct.

Mr. President, charities operate on public trust. If this trust is eroded, as it was following the Aramony tragedy, not only the charities, but also the persons who are the beneficiaries of these charities stand to suffer.

The most unfortunate aspect of this is that the majority of the charitable organizations are honest, good, noble organizations, dedicated to serving the public. Nonetheless, they are grouped together in peoples' minds, with the few who acted irresponsibly.

Currently, tax-exempt organizations are required to file a Federal 990 form with the IRS detailing, among other items, their income, expenditures, fundraising costs, and salaries of their five highest paid employees. While that may sound well and good, Mr. President, I see two main problems with current law: The public's lack of knowledge that such a form exists, and logistical problems of obtaining the information even if they are aware of its existence.

Many persons donate to their favorite charity, unaware that a 990 form is available. Or, even if they are aware of the existence of such information, current law simply requires the organization to make it available at the organization's headquarters, or for the individual to obtain it through the IRS. The charity is not required to send the information to the interested inquirer.

My legislation addresses these two key issues. First, it requires the charitable organization to let a donor or potential donor know of the availability of the disclosure form. Mr. President, I am not going to mandate the exact way this is to be done. Probably the most practical way for donors is in an acknowledgment thank you note. For potential donors, they can be notified over the phone or through news bulletins the organization puts out.

The interested individual can then send in a written request with the appropriate postage and handling fees, and the organization would be required to provide this financial information within 30 days of receipt of the request, or be subject to a $50 per day per person penalty.

In addition, my legislation would require the charity to disclose the five top highest employees' salaries, as well as all employee salaries over $100,000. Current law simply requires that the top five salaries be disclosed.

It is important to know what my legislation doesn't do as well as what it does do. It does not require the organizations to alter the manner in which they spend their money. It does not require them to alter the amount they pay their employees. It doesn't even require them to fill out a new form.

I believe that the American people are interested in knowing how much the heads of the charities to which they donate are being paid. This is especially true in light of the fact that President Clinton has indicated he will seek to raise taxes on single wage earners making $115,000 or more, and couples making $140,000 or above. The president believes he can get support for such a proposal since, to the average person, $100,000 or more is considered a sizable salary.

The organizations affected by my legislation are encouraged, but not required, to enclose a clarifying statement explaining their expenditures, salaries, as well as any other details they believe are relevant. Such a clarifying statement could provide a logical place to explain high salaries or other controversial expenditures.

Let me stress, Mr. President, that I am not going after the employee of a tax-exempt organization who makes a six-figure salary. I just say if he earns it, disclose it, and justify it. Likewise, if a charity nets out, after expenses, a small amount for the cause, then disclose it, and explain it.

My legislation exempts hospitals, religious organizations, educational institutions, and current law already exempts churches. It also exempts 501(c)3 organizations which take in less than $100,000 a year.

I made these exceptions for several reasons, but mainly because this legislation is not to be considered the entire solution, but rather a small first step. If it proves successful, I can always expand it to include some of these additional categories.

Mr. President, my staff and I have consulted with representatives from numerous charities and interested groups regarding this legislation since I first introduced it last year. These meetings were helpful, and I incorporated several of their suggestions in my bill. I realize, however, that the different groups will most likely oppose various aspects of the bill. I regret that, however I firmly believe donors and charities alike will benefit if this legislation becomes law, and the public gains more exposure into the financial dealings of these organizations.

[From the Washington Post, Mar. 10, 1993]

A YEAR LATER, UNITED WAY STILL FACES INVESTIGATIONS, MORALE PROBLEMS

(By Charles E. Shepard)

A year after ousting its longtime president and acknowledging that donors' money was misspent, United Way of America is dogged by pending investigations, low staff morale and ticklish negotiations with its former leader over his claim to $4 million in retirement benefits.

The UWA board has been trying for months to reach a financial settlement with William Aramony, who stepped down after 22 years as president after his spending and management practices came under fire in February 1992.

The board is eager to resolve the dispute but finds itself in a bind. A payment perceived as too generous could offend two constituencies vital to UWA's survival—the local United Ways that pay dues to finance the UWA's operations and the public, which donates $3 billion a year to the United Way network.

The Aramony controversy already has cost local United Ways millions of dollars in public support. And of the 1,400 local United Way that once paid dues, half have yet to return to the fold this year, including the United Ways in metropolitan Washington and Norfolk. The dues falloff has forced the independently run national office to cut its staff and budget, which has gone from $30 million to $21 million in two years.

Also looming over United Way of America is a criminal investigation by federal authorities. FBI and Internal Revenue Service agents working with the U.S. attorney's office in Alexandria recently began seeking interviews with former Aramony aides after months of collecting and reviewing subpoenaed documents. The New York state attorney general is conducting a separate civil inquiry of the UWA board's performance.

The questions about Aramony's retirement benefits first became public last April, when United Way of America issued a lengthy report sharply critical of Aramony's spending practices. The report disclosed, to the surprise of many in the United Way system, that the UWA board had approved a retirement package that appeared "unusually lucrative" and could provide Aramony with a lump sum of $4.4 million if "construed in a manner most favorable" to the former president.

Promising to investigate further before paying anything, the UWA board hired auditors to do a more extensive study of Aramony's spending and pledged to pursue any misappropriated money. The auditors' findings have not been disclosed.

Aramony, who has called the April report unfair and inaccurate, declined to comment about the negotiations. He said in a brief telephone interview, "I'd like to get this behind me and start a new life. I can't do that yet."

Officials at local United Ways also are eager to put the Aramony controversy to rest but say that will be difficult while questions remain.

"We want to know what other shoes are out there to drop," said Jack Pelisek, who chairs a task force in Milwaukee that is considering whether the local United Way should resume its ties to UWA. "We don't want to be in the position of recommending recommitment to United Way of America and then three weeks later have another mess arise in the United Way of America's old regime."

Inside United Way of America's riverfront headquarters in Alexandria, some employees feel bruised, overworked and unfairly blamed for someone else's alleged misdeeds. Elaine L. Chao, the organization's new president, said she was surprised by the staff's intense feelings. "It's very hard for people who are not within this building, I think, to understand the pain that is here," said Chao, who is a newcomer to the United Way movement.

At stake, aside from 187 jobs, are the services that United Way of America provides to a network that supports 47,000 local charities. Local United Ways rely on the Alexandria office to help train and recruit staff, raise money, shape national policy issues such as welfare reform and, increasingly, remake themselves to meet the public's changing expectations and society's changing needs.

"We just can't let United Way of America go out of business," said Robert C. Reifsnyder, president of Metro United Way in Louisville.

United Way of America's troubles began in February 1992, when published reports disclosed Aramony's $463,000 in annual salary and benefits, his use of chauffeured cars, flights on the supersonic Concorde, hiring of friends and the purchase of two condominiums in New York and Florida by Partnership Umbrella, one of several companies spun off by the UWA during Aramony's tenure.

Aramony and a longtime associate, Stephen J. Paulachak, still control Partnership Umbrella, a private company that helps nonprofit groups buy goods at a discount.

Aramony, 65, has started a consulting firm, The Aramony Co. He has a sizable nest egg after 38 years in the United Ways system: papers filed in his divorce last year show that, shortly before leaving his job, he owned cash, stocks, limited partnership interests and other assets of about $870,000, as well as a condominium in Old Town Alexandria and the disputed retirement benefits. Under the divorce settlement, Aramony has agreed to pay his ex-wife at least $112,000 a year in alimony.

Aramony's retirement package includes three pension plans. He contends that he is due $1.2 million under the basic plan that covers all UWA employees, $2.9 million from two supplemental pension plans and $239,000 in deferred compensation. The April 1992 report raised questions about the supplemental plans, saying that it is unclear from UWA records whether the board was fully aware of how much the plans would cost.

W.R. Howell, who chairs the UWA board, said the negotiations are very complicated. "I wish it was behind us, but it's not. But I can assure you that the resolution will be in the best interests of United Way of America and every local United Way," said Howell, chairman of the board of J.C. Penney Co. Howell said he intends to share as much information as possible "if, in fact, we can reach some resolution."

The loudest opposition to settling has come from the local United Way in Fresno, Calif. Michael J. Andritch, a banker who chairs the Fresno United Way's board, said he believes any settlement will "look like the good ol' boy network is alive and well and they are taking care of their own."

Andritch, who has voiced Fresno's discontent publicly, said the Fresno United Way lost $200,000 in pledges after the controversy broke last year. During last fall's fund-raising campaign, he said, he was amazed at how many local residents brought up the issue. "They would ask us, 'What is your attitude toward Bill Aramony and are you sending any of my money back there to those guys?'" he said.

Nationally, reports so far show that donations to the fall 1992 campaign fell 2.9 percent from the year before—a decline officials blame first on the economy and second on the Aramony controversy. The final figures are not complete yet, but if the pattern holds, this would translate into a drop of about $92 million.

The Fresno United Way has suggested that Aramony should be sued. "The fact of the matter is, his actions could very well lead to the downfall and disintegration of United Way of America, which would be a bad thing for this country," Andritch said.

All eyes are on Chao, 39, who was a surprise pick to put United Way of America back together again. Chao, who emigrated from Taiwan at age 8, is a Harvard Business School graduate and former banker who ran the Peace Corps for 14 months. She is paid $195,000 a year.

She moved quickly to build a rapport with local United Way officials, traveling to more than 30 cities, and several said in interviews that they were impressed by her intelligence and attentiveness to their concerns.

But back at the Alexandria headquarters, some staff members have complained privately about their early impressions of Chao: a mercurial temper, her early decision to fill three top jobs with outsiders whom she knew from the Reagan-Bush administration and BankAmerica Corp. and a perceived lack of sensitivity to the United Way culture and to the hurt feelings that persist.

Some of this frustration bubbled up in an 18-point letter sent anonymously to the UWA board in January. The document claimed participation of 30 employees, but was unsigned.

Chao said in an interview that she considers the letter's criticisms unfair. "Many people . . . came (to me) and did not want me to think that it was representative of the staff," she said. Chao said the letter saddened her because "in such a critical period in our recovery, we certainly don't need a letter such as this, which conjures up once again memories of the past."

UWA chairman Howell said that Chao, as an outsider coming into a new environment, was bound to meet some resistance. He said he talked with her about the letter and that Chao told him she was taking steps to respond. Those include staff meetings to discuss issues raised in the letter.

The board itself is under scrutiny from the New York state attorney general's charities bureau, which is investigating whether the board "did everything they should have done to make sure that United Way's money was used for the purposes of United Way and not for the benefit of any particular individual," said Pamela A. Mann, assistant attorney general in charge of the bureau.

Mann's staff has interviewed Howell and has asked to speak to other board members. Investigators also are looking at the United Way spinoff companies, Mann said.

Uptown from Mann's office, the spinoff Partnership Umbrella has shed one of the more controversial tokens of Aramony's management style: a 12th-floor condominium in a New York City high-rise used by Aramony and Paulachak on United Way of America and Partnership Umbrella business. Bought for $388,000 and decorated for nearly $50,000 more, the unit was sold last summer for about $415,000, land records show.

Partnership Umbrella has had less luck with a fifth-floor condominium in a hotel in Coral Gables, Fla., near Miami. That property, bought for $135,000, is still for sale.

In Louisville, Reifsnyder said he hopes the public will view further disclosures as left-

overs from last year's controversy. "They surfaced, they were a problem, we're moving on—and not . . . let's stew over this for another year."

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ROBB, Mr. WOFFORD, and Mr. SPECTER):

S. 567. A bill to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

CHESAPEAKE BAY RESTORATION ACT OF 1993

Mr. SARBANES. Mr. President, today I am introducing, together with my colleagues from Maryland, Virginia, and Pennsylvania—Senators MIKULSKI, WARNER, ROBB, WOFFORD, and SPECTER—an amended version of legislation we sponsored in the 102d Congress to reauthorize and enhance the Chesapeake Bay Program. This legislation builds upon the previous measure and the tremendously successful program authorized in the 1987 Water Quality Act, expanding and strengthening the cooperative efforts to protect and restore the Chesapeake Bay. I am pleased to note that an identical bill is being introduced in the House with broad bipartisan support.

The Chesapeake Bay Program which was authorized in the 1987 Water Quality Act, has been a successful endeavor. The cooperative Federal-State and interstate management structure established through the Chesapeake Bay Program has provided the framework for the restoration of the bay and serves as a model for other estuaries throughout the country and around the world. The bay program has pioneered pollution prevention techniques such as phosphate controls, bans on toxic boat paint, nutrient management efforts, and programs to cut pesticide use on cropland. The program serves as a proving ground for innovative approaches to environmental restoration.

With the signing of the Chesapeake Bay Agreement in 1987 and the 1992 amendments to the agreement, the Federal Government and the bay area jurisdictions—Pennsylvania, Maryland, Virginia, the District of Columbia and their local governments—set goals, made plans and have undertaken commitments to an ambitious program to achieve improved water quality and living resources productivity.

The level of public support and the degree of cooperation and coordination among all parties—the Federal, State, and local governments; environmental, community and citizens groups—is unparalleled. There are over 700 groups and some 40 committees involved in the bay program. Nine Federal agencies have signed memoranda of understanding [MOU's] with EPA to participate in the program.

In the years since the bay program was authorized, substantial progress has been made both in putting in place a coordinated Federal-State-local-citizen management structure and in specific programs to address key problems in the bay such as nutrient loads and the decline of living resources. Throughout this process, the Federal role has been crucial. It has served, in effect, as the glue that binds the program together and the catalyst that keeps it moving forward.

There are signs that the bay is improving:

Phosphorus discharges from municipal treatment plants, industry and nonpoint sources into the bay have been reduced by 35 percent from 1985 levels. This is a direct result of the phosphate detergent ban now in place in each State and the District of Columbia, new sewage treatment plant construction featuring processes for advanced phosphorus removal, and the Bay Program's unique nonpoint source controls.

Submerged Aquatic Vegetation [SAV], which provides critical habitat for the bay's living resources, has made a slow but steady comeback from dramatic declines in the 1960's and 1970's. This can be directly traced to improved water quality.

Striped bass have also made a significant recovery from the depleted stocks of the early 1980's. This success demonstrates that management controls can make a difference in the health of the bay's resources.

But, despite these efforts, the job of restoring the Chesapeake to levels of quality and productivity that existed earlier in this century is far from complete.

Many of the Bay's living resources—oysters, shad, white perch—which are indicators of the bay's health, are still in decline.

Runoff from farms and city streets and pollution from fertilizers, animal wastes, and air deposition, among other so-called nonpoint sources, continue to deprive the bay of life-sustaining oxygen. Nitrogen loads to the bay have increased by about 5 percent since 1985, despite the Chesapeake Bay's nutrient management program.

Population growth and development, and resulting pollution impacts in the watershed, threaten to undermine the gains that have been made thus far. The population of the United States increased by 22 percent in the past 20 years. In the Chesapeake Bay region, the population grew by roughly 40 percent over this same period. The cumulative effect of the growth in population is putting enormous pressures on our natural resource base.

Toxic chemicals are still present in the bay's surface and bottom waters, having untold impacts on the bay's water quality and wildlife.

A 1991 report prepared by the Chesapeake Bay Foundation entitled "Turning the Tide" documents many of these trends. It is clear that we need to do much more to really turn the tide and restore the bay to health.

Year 1993 marks the 10th anniversary of the signing of the first Chesapeake Bay Agreement and the beginning of a new phase in the Chesapeake Bay restoration effort. We have moved from the planning and analytical phase to advanced implementation of programs. Many of the relatively easy steps have been taken. Now we must begin addressing the problems that are much more difficult to resolve, as well as more expensive. New approaches and enhanced resources and effort are essential if we are to meet our goals and objectives in the Bay.

In order to address these problems I convened a distinguished group of experts on the Chesapeake Bay, consisting of representatives of the bay area States, the District of Columbia, the Chesapeake Bay Commission, the Citizens Advisory Committee, the Scientific and Technical Advisory Committee, the Local Government Advisory Committee, the Alliance for the Chesapeake Bay, the Chesapeake Bay Foundation, and other agencies and organizations responsible for implementing the strategies and programs called for under the bay agreement. I asked them to identify the highest priority needs for the restoration of the Chesapeake in the years ahead. We have continued to refine these needs and the results of this effort are embodied in this measure.

What does the legislation do?

First, it improves upon the management of the Bay Program by facilitating cooperation and coordination among the various agencies and programs of the Federal Government in support of the restoration of Chesapeake Bay. There are over 16 Federal agencies or departments with responsibility for the stewardship of the bay's resources or which have programs that influence or impact both directly and indirectly upon the bay. These agencies include the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the National Park Service, the National Oceanic and Atmospheric Administration, the Department of Defense, the U.S. Forest Service, the Soil Conservation Service, and the Federal Highway Administration. By more effectively sharing information, pooling agency expertise and combining and targeting resources, we can improve the Federal response, get more bang for the buck, and greatly enhance our abilities to protect and restore the Chesapeake Bay.

The legislation identifies and codifies the responsibilities of all the Federal agencies involved in the bay cleanup effort and requires that they cooperate in developing and implementing plans, programs and projects to meet their commitments to the Bay Program. Furthermore, it requires those agencies to report in their annual budget submissions on the activities that are being undertaken and planned. This

will help ensure accountability of the agencies and that any problems encountered come to the attention of the Congress.

Second, it requires the Federal facilities within the Chesapeake Bay watershed to review their operations on a regular basis and take corrective actions to ensure that these facilities do not adversely impact on the bay's water quality and living resources. A number of Federal agencies own or occupy large tracts of real estate in the Chesapeake Bay watershed. There are 66 military installations on approximately 350,000 acres. The U.S. Fish and Wildlife Service has 13 National Wildlife Refuges and a number of other facilities occupying approximately 46,000 acres. The Army Corps of Engineers owns approximately 70,000 acres in the watershed. While these agencies have made great strides in recent years to reduce discharges into the bay, there are still problems to be resolved to further reduce point and nonpoint source discharge from federally owned or occupied real estate and protect the natural resources of these areas.

The legislation would require each department, agency or instrumentality of the United States which owns or operates facilities within the bay watershed to perform an annual assessment of their facilities to ensure consistency and compliance with the commitments, goals and objectives of the Bay Program. It would also require the agencies to develop a detailed plan, funding mechanism and schedule for addressing or mitigating any potential impacts.

Third, it authorizes a comprehensive research, monitoring and data collection program to assess the status and trends in the environmental quality and living resources of the major tributaries, rivers and streams within the Chesapeake Bay watershed and to assist in the development of management plans for such waters. Until now, the principal focus of the bay cleanup effort has been on the mainstem of the Chesapeake. It has become increasingly clear however that many of the bay's problems originate in the rivers and streams which flow into the bay and that expanded efforts are needed in these waters if we are to achieve improvements in conditions in the bay watershed. In the 1992 amendments to the Chesapeake Bay Agreement, the Chesapeake Executive Council committed to develop and begin implementation of tributary-specific strategies to "achieve the water quality requirements necessary to restore living resources in both the mainstem and the tributaries." Although we have an extensive body of information about the mainstem bay and its dynamics from current monitoring and modeling programs, there is a critical need for enhanced basic and applied scientific research and long term monitoring of the trends in environmental quality and living resources of the tributaries. For example we do not have a system for accounting for sources of nutrients, and the movements of nutrients, pollutants, and sediments through the watershed.

It is clear that one of the most cost-effective ways to protect the rivers and streams in the watershed is to help, encourage and promote stewardship among the citizens and other interested parties who have a direct stake in the specific local situation. Stewardship starts with the individual citizens who live in the watershed. By conserving and protecting local water resources, citizens can also help to clean up the bay. However they frequently need guidance in identifying the threats to the water body and in devising appropriate solutions.

The legislation specifically encourages local and private sector participation in efforts to protect and restore the rivers and streams in the bay watershed by establishing a technical assistance and small grants program to support such activities as developing citizen monitoring programs, initiating local pollution prevention techniques and practices, and determining the most effective and appropriate vegetative plantings to prevent nonpoint source runoff into the rivers and streams. The seed grants would be available on a competitive and cost-sharing basis. The legislation also requires that the local efforts be coordinated in a watershed wide strategy.

Fourth, the legislation provides support to State and local governments in collecting and analyzing information about land use around the bay to give planners better tools in making sound land use management decisions. The Year 2020 Report underscored the need for comprehensive and coordinated information about forest resources, important habitat areas, unique and scenic areas and other sensitive areas so that planners can take this information into consideration in their planning and development activities. While land management and use is not a Federal responsibility, the Federal Government through agencies like the Soil Conservation Service, U.S. Forest Service, U.S. Geological Service and NOAA, to name a few, have invaluable information and technical expertise which can be of great assistance to State and local authorities, when properly integrated. The legislation authorizes EPA to work with other Federal agencies in developing a coordinated watershed land use data base.

Fifth, it establishes a habitat restoration and enhancement demonstration program to develop, demonstrate and showcase various low-cost techniques for restoring or enhancing wetlands, forest riparian zones and other types of habitat associated with the Chesapeake Bay and its tributaries. The wetlands, submerged aquatic vegetation [SAV] beds, and forest buffer strips play a vital role in the bay by absorbing nutrients such as phosphorus and nitrogen, trapping sediments, producing oxygen, and providing food, shelter, and nursery areas for fish and wildlife. They also serve as measures, or indicators of the bay's health. Scientists have demonstrated a clear link between water quality conditions and the survival and health of these various types of habitat. Protecting and restoring these resources offers tremendous opportunities to improve water quality conditions necessary to support the living resources of the bay and its tributaries and provide a host of other benefits.

Unfortunately, there is no centralized data base of scientific literature on habitat restoration design and techniques. We need to learn more about the effectiveness of different kinds of riparian zone vegetation in different geologic conditions. For example are forest buffer strips more effective in removing nutrients than other types of vegetation plantings? Under what conditions? What types of forest cover remove the most nutrients? How much of a buffer strip is needed to prevent or reduce runoff? More information is needed about the hydrology of rivers and streams and the mechanisms by which nutrients are removed. It is these kinds of questions and information gaps which the habitat restoration and enhancement demonstration program authorized in this legislation seeks to address.

Sixth, the legislation authorizes funding to assist in the implementation of specific actions to reduce toxics use and risks throughout the bay watershed. The 1987 bay agreement committed the signatories to the ambitious goal of eliminating all controllable sources of toxics to the Chesapeake Bay and the Bay Program is currently in the process of reviewing the baywide toxics reduction strategy to better target toxic pollutant problems. One of the most important steps in accomplishing this goal is identifying and quantifying the amount of toxics being discharged into the bay and its tributaries. The legislation specifically directs the Administrator to assist the States in improving this data collection process and integrating this information into the Chesapeake Bay Program toxics loading inventory. It also directs the EPA Administrator to begin implementing toxics reduction, pollution prevention and management actions, including targeted demonstration projects, to achieve the toxics reduction goals of the bay agreement.

The Chesapeake Bay Restoration Act, in my view, represents the third leg of the three-legged stool on which the Chesapeake Bay Program must rest. The first two legs were established in the 1987 Water Quality Act

authorization, an authorization for EPA to administer the program and an authorization for grants to the bay area States which has been used primarily for nonprofit source reduction efforts. The third leg, which this legislation would authorize, provides the authority and resources that are necessary for Federal agencies to implement the strategies called for under the 1987 bay agreement and the 1992 amendments to the agreement.

I want to underscore that this legislation is not intended as an all-encompassing measure which seeks to remedy all of the problems of the bay. Some of these issues have been or are being addressed in other measures. Rather, the Chesapeake Bay Restoration Act is intended to continue and improve upon the Chesapeake Bay Program that was authorized in the 1987 Clean Water Act.

It has been our strategy to incorporate this measure in the reauthorization of the Clean Water Act. During the last Congress however efforts to reauthorize the Clean Water Act were unfortunately hampered by a number of controversial issues and the legislation did not come to the floor for consideration. In the meantime, one of the key provisions of our original Chesapeake Bay bill, the NOAA science, research and monitoring program, was enacted as part of the NOAA authorization bill. The Chesapeake Bay Program also began implementing some of the strategies and programs called for under our previous bill and has taken some important new directions, based on the findings of the modeling efforts. The Chesapeake Bay Restoration Act of 1993 builds upon the previous measure and addresses priority needs reflected in the Bay Program's new directions and in the 1992 amendments to the Chesapeake Bay Agreement.

The Chesapeake Bay Restoration Act was developed in consultation and cooperation with the signatories to the bay agreement and has the strong support of the Chesapeake Bay Commission, the Chesapeake Bay Foundation, and the congressional delegations from the region.

Mr. President, 1993 marks the 10th anniversary of the signing of the first Chesapeake Bay Agreement. We have made great progress in the past 10 years in the restoration effort, and there are clear signs that the health of the bay is improving. Phosphorus discharges have been reduced substantially; bay industries and sewage treatment plants lead the Nation in compliance with pollution discharge requirements; submerged aquatic vegetation is making a comeback in the bay; the striped bass are making a come back in the bay. But despite these advances, it is also clear that we still have a long way to go in order to turn the tide.

Runoff from city streets, from farms, from suburban areas, pollution from fertilizers, animal waste, and air deposition, among other so-called nonpoint sources, continue to deprive the bay of important life-sustaining oxygen.

Toxic chemicals are still present in the bay's surface and bottom waters with untold impacts on its water quality and wildlife. Continued population growth and development is putting enormous pressure on the Chesapeake Bay watershed. And many of the bay's living resources, oysters, water fowl, and many species of finfish, and the habitats which support them, are still in decline.

Mr. President, new approaches and enhanced resources and effort are absolutely essential if we are to meet our goals and objectives in the Chesapeake Bay cleanup program in the years ahead. These objectives are what the Chesapeake Bay Restoration Act seeks to provide.

This legislation includes new Federal initiatives to improve cooperation, coordination, and compliance on the part of the Federal agencies which directly impact the bay. There are numerous Federal facilities on the bay.

It establishes a new program to encourage citizens and private sector stewardship of the bay and of the tributaries, the rivers and streams, which flow into it.

It provides support to State and local governments in collecting and analyzing information about land use around the bay to provide better tools in making sound land use management decisions.

The legislation authorizes a habitat restoration demonstration program to develop and demonstrate low cost techniques for restoring or enhancing wetlands, submerged aquatic vegetation and forest riparian zones in the watershed.

The legislation provides funding to assist in implementing toxic reductions, pollution prevention, and management actions to reduce toxic use and risk throughout the bay.

The legislation will provide a much-needed boost to our efforts to clean up the Chesapeake Bay and to set the course for the restoration program to nearly the turn of this century.

This legislation, the Chesapeake Bay Restoration Act, was developed in consultation and cooperation with my fellow cosponsors, with the signatories to the Bay Agreement, the States in the bay watershed, the Federal agencies that have played such an instrumental rule. It has the strong support of the Chesapeake Bay Commission, the Chesapeake Bay Foundation, elected representatives, not only at the national but at the State and local level, from the region.

Mr. SARBANES. Mr. President, it is the hope of the cosponsors of this measure that it will be incorporated into the reauthorization of the Clean Water Act when that legislation is considered in the course of this session of the Congress.

The Chesapeake Bay cleanup effort has been a major initiative, strongly supported by all of the Members of this body. I urge my colleagues to join with us in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and supporting letters be printed in the RECORD.

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

S. 567

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 "Chesapeake Bay Restoration Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of growth and development of population in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government, State governments, the District of Columbia and the governments of political subdivisions of the States with jurisdiction over the Chesapeake Bay watershed have committed to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national model for the management of estuaries; and

(5) there is a need to expand Federal support for research, monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the goals and commitments of the Chesapeake Bay Program.

(b) PURPOSES.—The purposes of this Act are to—

(1) expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay; and

(2) achieve the goals embodied in the Chesapeake Bay Agreement.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CHESAPEAKE BAY AGREEMENT.—The term "Chesapeake Bay Agreement" means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Governor of the State of Maryland, the Governor of the State of Pennsylvania, the Governor of the State of Virginia, the mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator, on behalf of the executive branch of the Federal Government.

(3) CHESAPEAKE BAY PROGRAM.—The term "Chesapeake Bay Program" or "Chesapeake Bay Programs" means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

(4) CHESAPEAKE BAY WATERSHED.—The term "Chesapeake Bay watershed" shall have the meaning determined by the Administrator.

(5) CHESAPEAKE EXECUTIVE COUNCIL.—The term "Chesapeake Executive Council" means the signatories of the Chesapeake Bay Agreement.

(6) PERSON.—The term "person" includes a State or a political subdivision of a State, interstate, or regional agency or entity, or any other public or nonprofit private agency, institution, or organization.

(7) SIGNATORY JURISDICTION.—The term "signatory jurisdiction" means a jurisdiction of a signatory of the Chesapeake Bay Agreement.

SEC. 4. MANAGEMENT OF CHESAPEAKE BAY PROGRAM.

(a) IN GENERAL.—Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(3) by inserting before subsection (c) (as so redesignated) the following new subsections:

"(a) DEFINITIONS.—As used in this section:

"(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Governor of the State of Maryland, the Governor of the Commonwealth of Pennsylvania, the Governor of the Commonwealth of Virginia, the mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator, on behalf of the executive branch of the Federal Government.

"(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' or 'Chesapeake Bay Programs' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

"(3) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories of the Chesapeake Bay Agreement.

"(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

"(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

"(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

"(A) implementing and coordinating science, research, modeling, support services, monitoring, and data collection activities that support the Chesapeake Bay Program;

"(B) making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay Program;

"(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement that participate in the Chesapeake Bay Program in developing and implementing specific action plans to carry out the responsibilities of the authorities under the Chesapeake Bay Agreement;

"(D) assisting the Administrator in coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

"(i) improve the water quality and living resources of the Bay; and

"(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

"(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.".

(b) INTERAGENCY COOPERATION AND COORDINATION.—

(1) IN GENERAL.—There is established a Chesapeake Bay Federal Agencies Committee (hereafter in this subsection referred to as the "Committee").

(2) PURPOSES.—The purposes of the Committee shall be to—

(A) facilitate the collaboration, cooperation and coordination among Federal agencies and programs of Federal agencies in support of the restoration of the Chesapeake Bay;

(B) ensure the integration of Federal activities relating to the restoration of the Chesapeake Bay with State and local restoration activities, and the restoration activities of nongovernmental entities; and

(C) provide a framework for activities that effectively focus the expertise and resources of Federal agencies on problems identified by the Committee in such manner as to produce demonstrable environmental results and demonstrable improvements in the agency programs.

(3) DUTIES OF THE COMMITTEE.—The Committee shall share information, set priorities, and develop and implement plans, programs, and projects for collaborative activities to carry out the following duties:

(A) Reviewing all Federal research, monitoring, regulatory, planning, educational, financial and technical assistance, and other programs that the Committee determines to be appropriate, that relate to the maintenance, restoration, preservation or enhancement of the environmental quality and natural resources of the Chesapeake Bay.

(B) Reviewing each Federal program administered by the head of each participating Federal agency that may influence or contribute to point and nonpoint source pollution and establish a means for the mitigation of any potential impacts of the pollution.

(C) Developing and implementing an annual and long-range work program that specifies the responsibilities of each Federal agency in meeting commitments and goals of the Chesapeake Bay Agreement.

(D) Assessing priority needs and making recommendations to the Chesapeake Executive Council for improved environmental and living resources management of the Chesapeake Bay ecosystem.

(4) APPOINTMENT OF MEMBERS.—The members of the Committee shall be appointed as follows:

(A) At least 1 member who is an employee of the Environmental Protection Agency shall be appointed by the Administrator.

(B) At least 1 member who is an employee of the National Oceanic and Atmospheric Administration of the Department of Commerce shall be appointed by the Secretary of Commerce.

(C) At least 3 members shall be appointed by the Secretary of the Interior, of whom—

(i) 1 member shall be an employee of the United States Fish and Wildlife Service;

(ii) 1 member shall be an employee of the National Park Service; and

(iii) 1 member shall be an employee of the United States Geological Survey.

(D) At least 4 members shall be appointed by the Secretary of Agriculture, of whom—

(i) 1 member shall be an employee of the Soil Conservation Service;

(ii) 1 member shall be an employee of the Forest Service;

(iii) 1 member shall be an employee of the Agricultural Stabilization and Conservation Service; and

(iv) 1 member shall be an employee of the Extension Service.

(E) At least 3 members shall be appointed by the Secretary of Defense, of whom—

(i) At least 2 members shall be employees of the United States Army, of whom 1 member shall be an employee of the Army Corps of Engineers; and

(ii) 1 member shall be an employee of the United States Navy.

(F) At least 1 member who is an employee of the Federal Highway Administration shall be appointed by the Secretary of Transportation.

(G) At least 1 member who is an employee of the Coast Guard shall be appointed by the head of the department in which the Coast Guard is operating.

(H) At least 1 member shall be appointed by the Secretary of Housing and Urban Development.

(I) At least 1 member shall be appointed by Board of Regents of the Smithsonian Institution.

(5) CHAIRPERSON.—The Committee shall on the initial meeting of the Committee, and biennially thereafter, select a Chairperson from among the members of the Committee.

(6) PROCEDURES.—The Committee may establish such rules and procedures (including rules and procedures relating to the internal structure and function of the Committee) as the Committee determines to be necessary to best fulfill the responsibilities of the Committee.

(7) MEETINGS.—The initial meeting of the Committee shall be not later than 60 days after the date of enactment of this Act. Subsequent meetings shall be held on a regular basis at the call of the Chairperson.

(c) REPORTS.—Beginning with the submission by the President of the budget of the United States relating to the first fiscal year beginning after the date of enactment of this Act, the head of each Federal agency shall submit to the President a report to be submitted to Congress along with the budget of the United States that identifies—

(1) the activities that have been carried out or are being undertaken to carry out the responsibilities of the Federal agency under this section or that are otherwise required under the Chesapeake Bay Program;

(2) planned activities to carry out the responsibilities referred to in paragraph (1); and

(3) the resources provided by the Federal agency to meet the responsibilities of the agency under this section and under the Chesapeake Bay Program.

SEC. 5. COMPLIANCE BY FEDERAL FACILITIES.

(a) IN GENERAL.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the head of each Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall perform an assessment of the facility for the purpose of ensuring consistency and compliance with the commitments, goals, and objectives of the Chesapeake Bay Program.

(2) ASSESSMENT.—The assessment referred to in paragraph (1) shall identify any existing or potential impact on the water quality

or living resources of the Chesapeake Bay (or both) by the facility, including any potential land-use impacts of activities related to new development, man-made obstructions to fish passage, shoreline erosion, and ground water and storm water runoff.

(3) STATE PLANS AND PROGRAMS.—To the maximum extent practicable, each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure conformance with any applicable State plans and programs to protect environmentally sensitive areas in the Chesapeake Bay watershed.

(b) REPORT REQUIREMENTS.—As part of each report required under section 4(c), the head of each Federal agency shall include a detailed plan, funding mechanism, and schedule for addressing or mitigating the impacts referred to in subsection (a).

SEC. 6. CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator, in cooperation with the Chesapeake Executive Council, the Secretary of Commerce (acting through the Administrator of the National Oceanic and Atmospheric Administration), the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), and the heads of such other Federal agencies as the Administrator determines to be appropriate, shall implement a coordinated research, monitoring, and data collection program to—

(1) assess the status of, and trends in, the environmental quality and living resources of the major tributaries, rivers and streams within the Chesapeake Bay watershed; and

(2) assist in the development of management plans for the waters referred to in paragraph (1).

(b) CONTENTS OF PROGRAM.—The program referred to in subsection (a) shall include—

(1) a comprehensive inventory of water quality and living resource data for waters within the Chesapeake Bay watershed;

(2) an assessment of major issues and problems concerning water quality in the Chesapeake Bay watershed, including the extent to which the waters provide for the protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife;

(3) a program to identify sources of water pollution within the Chesapeake Bay watershed, including a system of accounting for sources of nutrients, and the movement of nutrients, pollutants, and sediments through the Chesapeake Bay watershed; and

(4) the development of a coordinated Chesapeake Bay watershed land-use database that incorporates resource inventories and analyses—

(A) for the evaluation of the effects of different land-use patterns on hydrological cycles, water quality, living resources, and other environmental features; and

(B) as an aid to making sound land-use management decisions.

(c) MANAGEMENT PLANS.—In a manner consistent with each applicable deadline established by the Chesapeake Executive Council, the Administrator, in consultation with the Chesapeake Executive Council, shall assist each signatory jurisdiction of the Chesapeake Bay Counsel in the development and implementation of a management strategy for each of the major tributaries of the Chesapeake Bay, designed for the achievement of—

(1) a reduction, in a manner consistent with the terms of the Chesapeake Bay Agreement, in the quantity of nitrogen and phosphorous entering the main stem Chesapeake Bay; and

(2) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay.

(d) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Chesapeake Executive Council, is authorized to provide technical and financial assistance to any State government, interstate entity, local government, or any other public or nonprofit private agency, institution or organization in the Chesapeake Bay watershed to—

(A) support the research, monitoring, and data collection program under this section;

(B) develop and implement cooperative tributary basin strategies that address the water quality and living resource needs described in paragraph (2); and

(C) encourage and coordinate locally based public and private watershed protection and restoration efforts that aid in the development and implementation of programs that complement the tributary basin strategies developed by the Chesapeake Executive Council.

(2) GRANTS.—

(A) IN GENERAL.—In providing financial assistance pursuant to paragraph (1), the Administrator may carry out a grant program. Under the grant program, the Administrator may award a grant to any person (including the government of a State) who submits an application that is approved by the Administrator.

(B) FEDERAL SHARE.—A grant awarded under this subsection for a fiscal year shall—

(i) not exceed an amount equal to 75 percent of the total annual cost of carrying out the activities that are the subject of the grant; and

(ii) be awarded on the condition that the non-Federal share of the costs of the activities referred to in subparagraph (A) is paid from non-Federal sources.

(C) WATERSHED PROTECTION AND RESTORATION.—As part of the grant program authorized under this paragraph, the Administrator may award a grant to a signatory jurisdiction to implement a program referred to in paragraph (1)(C).

(3) PRIORITIZATION.—In carrying out the technical and financial assistance program under this subsection, the Administrator shall give priority to proposals that facilitate the participation of local governments and entities of the private sector in efforts to improve water quality and the productivity of living resources of rivers and streams in the Chesapeake Bay watershed.

(4) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The Administrator shall ensure that assistance made available under this subsection—

(A) is consistent with the requirements of other Federal financial assistance programs;

(B) is provided in coordination with the programs referred to in subparagraph (A); and

(C) furthers the objectives of the Chesapeake Bay Program.

SEC. 7. HABITAT RESTORATION AND ENHANCEMENT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—

(1) HABITAT RESTORATION AND DESIGN PROGRAM.—The Administrator, in cooperation with the individuals described in paragraph (2), shall establish a habitat restoration and design program in the Chesapeake Bay watershed for the purpose of developing and demonstrating low-cost techniques for restoring or enhancing wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

(2) INDIVIDUALS.—The individuals described in this paragraph are the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Secretary of Defense, acting through the Assistant Secretary of the Army for Civil Works, the Secretary of Agriculture, acting through the Chief of the Forest Service, and the heads of such other Federal agencies and departments and agencies of a State or political subdivision of a State as the Administrator determines to be appropriate

(b) CRITERIA FOR IDENTIFICATION OF AREAS OF SPECIAL CONCERN.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Chesapeake Executive Council, shall develop criteria to identify areas of special concern, including—

(1) unique, significant, or representative habitat types;

(2) areas that are subject to, or threatened by, habitat loss or habitat degradation (or both) attributable to human or natural causes; and

(3) areas inhabited by endangered, threatened, rare species, neotropical migratory birds, or species that have a unique function within the Chesapeake Bay ecosystem.

(c) PLAN.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Chesapeake Executive Council, shall develop a plan for the protection and conservation of wetlands, contiguous riparian forests, and other habitats within the Chesapeake Bay watershed.

(d) DUTIES OF THE ADMINISTRATOR.—In carrying out the demonstration program under this section, the Administrator, in consultation with the Chesapeake Executive Council, shall—

(1) identify opportunities for the restoration and mitigation of major habitat resources in the Chesapeake Bay watershed;

(2) characterize the historical importance of the habitat resources identified pursuant to paragraph (1) to the health and functioning of the Chesapeake Bay ecosystem;

(3) conduct a prerestoration characterization assessment of each habitat resource identified pursuant to paragraph (1) to evaluate with respect to the habitat resource—

(A) the potential effectiveness of a restoration effort;

(B) mitigation options; and

(C) the cost-effectiveness of each effort or option referred to in subparagraphs (A) and (B);

(4) consider the degree to which reconstructed and enhanced habitats may—

(A) mitigate the effects of nutrient loading caused by nonpoint source pollution from developed areas and agricultural activities;

(B) reduce erosion and mitigate flood damage; and

(C) assist in the protection or recovery of living resources;

(5) ensure coordination with all existing management, regulatory, and incentive programs;

(6) to accomplish the purposes of the demonstration program under this section, test materials and techniques for restoration and enhancement, including dredge material, submerged aquatic vegetation plantings, breakwaters, forest buffer strips, and artificial wetlands;

(7) monitor and evaluate the effectiveness of the demonstration projects;

(8) establish and maintain a central clearinghouse to facilitate access to information related to habitat of the Chesapeake Bay watershed, including information relating to—

(A) habitat—

(i) location;

(ii) type;

(iii) acreage;

(iv) function;

(v) condition and status; and

(vi) restoration and design techniques; and

(B) trends related to the information referred to in subparagraph (A); and

(9) develop and carry out educational programs (including training programs), research programs, and programs for technical assistance to assist in the efforts of State and local governments and private citizens related to habitat restoration and enhancement, including efforts for habitat—

(A) identification;

(B) delineation;

(C) mapping;

(D) functional assessment and mitigation; and

(E) restoration or creation practices.

(e) ASSISTANCE.—

(1) IN GENERAL.—In carrying out the demonstration program under this section, the Administrator is authorized to provide, in cooperation with the Chesapeake Executive Council, technical assistance and financial assistance in the form of a grant to any State government, interstate entity, local government, or any other public or nonprofit private agency that submits an approved application.

(2) FEDERAL SHARE.—

(A) GRANTS.—The Federal share of the amount of any grant awarded under this subsection shall be—

(i) with respect to a project conducted by the grant recipient on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the grant; and

(ii) with respect to a project conducted by the grant recipient on land that is not owned or leased by the Federal Government, 75 percent of the cost of the activities that are the subject of the grant.

(B) PROJECTS.—The Federal share of any project conducted by the Administrator under this subsection shall be—

(i) with respect to a project conducted on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the project; and

(ii) with respect to a project conducted on land that is not owned or leased by the Federal Government, 75 percent of the cost of the activities that are the subject of the project.

(f) HABITAT PROTECTION AND RESTORATION PROGRESS ASSESSMENT.—Not later than 3 years after the date of enactment of this Act, and biennially thereafter, the Administrator shall submit a report to Congress concerning the results of the demonstration projects conducted under the habitat restoration and design program described in subsection (a). The report shall also include a summary of scientific information concerning habitat restoration and protection in existence at the time of preparation of the report, and a description of methods, procedures, and processes to assist State and local governments and other interested entities in carrying out activities for the protection and restoration of wetlands, contiguous riparian forests, and other types of critical habitat that the Administrator determines to be appropriate.

SEC. 8. BASINWIDE TOXICS REDUCTION.

(a) IN GENERAL.—The Administrator, in cooperation with the Chesapeake Executive Council, shall implement a comprehensive basinwide toxics reduction strategy (referred to in this section as the "Basinwide Toxics Reduction Strategy") that, with respect to the reduction of inputs of toxic pollutants to the Chesapeake Bay and the tributaries of the Bay—

(1) establishes basinwide objectives; and

(2) describes actions that are necessary to achieve a multijurisdictional approach to the reduction of the inputs.

(b) RESEARCH AND MONITORING.—

(1) IN GENERAL.—The Administrator shall undertake such research and monitoring activities as the Administrator determines to be necessary for the improvement of the understanding of intermedia transfers of toxic pollutants and the ultimate fate of the pollutants within the Chesapeake Bay ecosystem.

(2) REASSESSMENT OR REVISION.—The Administrator shall—

(A) take into account the results of the research and analysis referred to in paragraph (1) in any reassessment of the Basinwide Toxics Reduction Strategy; and

(B) incorporate the results in any related revision of the Basinwide Toxics Reduction Strategy.

(c) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in cooperation with the Chesapeake Executive Council, shall provide such financial and technical assistance as the Administrator determines to be necessary to—

(A) by not later than 1 year after the date of enactment of this Act, develop a process to assist signatory jurisdictions—

(i) with improving the identification of the sources and transport mechanisms of toxic pollutant loadings to the Chesapeake Bay and the tributaries of the Bay from point and nonpoint sources; and

(ii) with the periodic integration, in a consistent format and manner, of the information obtained pursuant to subparagraph (A) into a toxics loading inventory for the Chesapeake Bay maintained pursuant to the Chesapeake Bay Program (referred to in this section as the "Chesapeake Bay Program Toxics Loading Inventory"); and

(B) by not later than 2 years after the date of enactment of this Act, commence the implementation of toxics reduction, pollution prevention, and management actions designed to achieve the toxics reduction goals of the Chesapeake Bay Agreement.

(2) ACTIONS.—The toxics reduction, pollution prevention, and management actions referred to in paragraph (1)(B) shall—

(A) be based upon the findings and recommendations of a reevaluation of the Basinwide Toxics Reduction Strategy; and

(B) include targeted demonstration projects designed to reduce the level of toxic pollutant loadings from major sources identified in the Chesapeake Bay Program Toxics Loading Inventory.

SEC. 9. STUDY OF CHESAPEAKE BAY PROGRAM.

Not later than January 1, 1996, the Administrator, in cooperation with the Chesapeake Bay Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

(1) evaluate the implementation of the Chesapeake Bay Agreement, including activities of the Federal Government and State and local governments;

(2) determine whether Federal environmental programs and other activities adequately address the priority needs identified in the Chesapeake Bay Agreement;

(3) assess the priority needs required by the Chesapeake Bay Program management strategies and how the priorities are being met; and

(4) make recommendations for the improved management of the Chesapeake Bay Program.

SEC. 10. AUTHORIZATIONS.

(a) FEDERAL WATER POLLUTION CONTROL ACT.—

(1) PROGRAM OFFICE.—Section 117(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1267(d)(1)) is amended by striking "1987, 1988, 1989, and 1990" and inserting "1987 through 1999".

(2) OTHER AUTHORIZATION.—Section 117(d)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1267(d)(2)) is amended by striking "1987, 1988, 1989, and 1990" and inserting "1987 through 1999".

(b) ADDITIONAL AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out activities under this Act that are not funded under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267)—

(1) $10,000,000 for fiscal year 1994;

(2) $11,000,000 for fiscal year 1995;

(3) $12,000,000 for fiscal year 1996;

(4) $13,000,000 for fiscal year 1997;

(5) $14,000,000 for fiscal year 1998; and

(6) $15,000,000 for fiscal year 1999.

CHESAPEAKE BAY RESTORATION ACT OF 1993—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the bill, the "Chesapeake Bay Restoration Act of 1993."

SECTION 2. FINDINGS AND PURPOSE

States that the purpose of the Act is to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

SECTION 3. DEFINITIONS

Defines the terms, "Administrator," "Chesapeake Bay Agreement," "Chesapeake Bay Program," "Chesapeake Bay Watershed," "Chesapeake Executive Council," and "Person."

SECTION 4. MANAGEMENT OF CHESAPEAKE BAY PROGRAM

Provides authority for EPA to continue to lead and coordinate Federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council, and to maintain a Chesapeake Bay Liaison Office.

Directs the Chesapeake Bay Liaison Office to provide support and coordinate Federal, state and local efforts in developing strategies and action plans and conducting systemwide monitoring and assessment to improve the water quality and living resources of the Bay.

Establishes a "Chesapeake Bay Federal Agencies Committee" to facilitate collaboration, cooperation and coordination among the agencies and programs of the Federal government in support of the restoration of Chesapeake Bay.

Directs each agency to provide, as part of its annual budget submission to the Congress, a report on the activities being undertaken and planned and the resources being provided to assist in the Bay restoration effort.

SECTION 5. FEDERAL FACILITIES COMPLIANCE

Requires each department, agency or instrumentality of the United States which

owns or operates facilities within the Bay watershed to perform an annual assessment of their facilities to ensure consistency and compliance with the commitments, goals and objectives of the Bay program. Also requires the agencies to develop a detailed plan, funding mechanism and schedule for addressing or mitigating any potential impacts.

SECTION 6. CHESAPEAKE BAY WATERSHED, TRIBUTARY AND RIVER BASIN PROGRAM

Authorizes a comprehensive research, monitoring and data collection program to assess the status and trends in the environmental quality and living resources of the major tributaries, rivers and streams within the Chesapeake Bay watershed and to assist in the development of management plans for such waters. Directs the establishment of a system for accounting for sources of nutrients, and the movements of nutrients, pollutants and sediments through the watershed.

Provides for development of a coordinated Chesapeake Bay watershed land use data base, incorporating resource inventories and analyses in a digital format, to provide information necessary to plan for and manage growth and development and associated impacts on the Bay system.

Encourages local and private sector participation in efforts to protect and restore the rivers and streams in the Bay watershed by establishing a technical assistance and small grants program. Requires that local efforts be coordinated in a watershed-wide strategy.

SECTION 7. HABITAT RESTORATION AND ENHANCEMENT DEMONSTRATION PROGRAM

Establishes a habitat restoration and enhancement demonstration program to develop, demonstrate and showcase various low-cost techniques for restoring or enhancing wetlands, forest riparian zones and other types of habitat associated with the Chesapeake Bay and its tributaries.

Directs the Administrator, in cooperation with the Chesapeake Executive Council, to develop a plan for the protection and conservation of wetlands, contiguous riparian forests and other habitats within the Bay watershed, within two years from the date of enactment of the act.

Establishes a central clearinghouse to facilitate access to information about Bay watershed habitat locations, types, acreages, status and trends and restoration and design techniques.

Directs the Administrator to publish and disseminate on a periodic basis a habitat protection and restoration guidance manual describing methods, procedures and processes to guide State and local efforts in the protection and restoration of various types of habitat.

SECTION 8. BASIN WIDE TOXICS REDUCTION

Authorizes EPA to assist the States in the implementation of specific actions to reduce toxics use and risks throughout the Bay watershed. Directs the Administrator to assist the States in improving data collection on the sources of toxic pollutants entering the Bay and integrating this information into the Chesapeake Bay Program Toxics Loading Inventory. Also directs the Administrator to begin implementing toxics reduction, pollution prevention and management actions, including targeted demonstration projects, to achieve the toxics reduction goals of the Bay Agreement.

SECTION 9. STUDY OF CHESAPEAKE BAY PROTECTION PROGRAM

Directs EPA to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the Bay Agreement. Also directs EPA to assess priority needs for the Bay and make recommendations for improved management of the program.

SECTION 10. AUTHORIZATIONS

Authorizes $23 million for fiscal year 1994, $24 million for fiscal year 1995, $25 million for fiscal year 1996, $26 million for fiscal year 1997, $27 million for fiscal year 1998 and $28 million for fiscal year 1999 to carry out this act.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Washington, DC, March 8, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing, in my capacity as Governor and Chair of the Executive Council of the Chesapeake Bay Agreement, to commend you for the initiative you have taken to reauthorize and expand federal participation in the Chesapeake Bay program through the introduction of the Chesapeake Bay Restoration Act of 1993. It is time to update the existing federal involvement, and build upon the federal-state partnership we established in the 1987 Chesapeake Bay Agreement. Your legislation opens a new phase in the Bay program and gives the clean up effort an important boost.

The Chesapeake Bay watershed will face increasing environmental threats in the years ahead. In 1992, the Executive Council agreed to amendments that will expand the program to include control of the pollution that flows into the Bay from its major tributaries. This approach will require substantial new efforts to reduce the amount of nutrients that enter the Bay from nonpoint sources. The new efforts are necessary if we are to meet the 40 percent nutrient reduction goal called for in the Bay agreement.

The cooperation of government at the federal, state and local level will be essential to protecting and restoring the Bay. Your bill helps to establish the blueprint for that cooperation. It also provides for new opportunities on habitat restoration through the creation of low-cost restoration and enhancement demonstration projects. These projects directly address an areas that is key to supporting the living resources of the Bay, the main goal of the Bay agreement.

I also want to thank you, and Charles Stek of your office, for consulting extensively with my Washington Office, Maryland state agencies, the Chesapeake Bay Commission, and all sectors of the Bay community during the process of drafting your legislation. The final product reflects a broad consensus of what needs to be done to build upon the progress we have already made.

I look forward to working with you to ensure the passage of this important legislation.

Sincerely,
WILLIAM DONALD SCHAEFER,
Governor.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, March 9, 1993.

Hon. PAUL S. SARBANES,
Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Foundation's strong support for the Chesapeake Bay Restoration Act of 1993. As you know, I have been concerned about the apparent loss of momentum within the Chesapeake Bay Program in recent months. Although I realize that no single piece of legislation can save the Chesapeake Bay, I believe this bill will shake up and reenergize the Bay program. I am particularly enthusiastic about the new wetlands restoration program. It is time to move beyond simply focussing on preserving our remaining wetlands, and get on with the job of restoring and enhancing the resilience of the Bay.

I am also glad to see the Act's focus on the tributary strategies. This legislation will take us the necessary next step toward true integrated watershed management, an approach pioneered by the Chesapeake Bay Program that is now widely recognized as the only logical way to protect our waterbodies.

Finally, the participation of Federal agencies new to the Bay Program, including the Departments of Transportation and Housing and Urban Development, recognizes the fact that many parts of the Federal government, not just those concerned with the environment, affect the health of the Bay. As we increasingly recognize the linkages between how we use the land and the health of the Bay, these agencies' participation in the Bay Program has become essential.

In summary, this legislation is a definite step forward for the Bay Program, and will aim it in the right direction for the rest of the century. I would like to thank you and your cosponsors for your efforts on behalf of this legislation and on behalf of the Chesapeake Bay.

Very truly yours,
WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, March 8, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Commission's strong support for the Chesapeake Bay Restoration Act (CBRA) of 1993. As you know, the Chesapeake Bay Commission is a tri-state legislative advisory commission created to assist the General Assemblies of Maryland, Virginia and Pennsylvania in addressing Chesapeake Bay-related issues which are of mutual concern to the three member States. The congressional reauthorization and enhancement of the Chesapeake Bay Program is certainly one such issue.

The Chesapeake Bay Restoration Act of 1993 builds upon the highly successful program authorized in the 1987 Water Quality Act and includes important new Federal initiatives in the areas of Federal agency cooperation, coordination and compliance; the conservation and restoration of the tributaries, rivers and streams in the Bay watershed; habitat protection and restoration; population growth and development; and toxics reduction. These are major areas in which we, the States, require additional Federal assistance. The legislation provides enhanced resources and new programs that will assist us and other governmental and nongovernmental organizations in addressing and meeting the needs for the restoration of the Chesapeake Bay in the years ahead.

The legislation is vital to the continued success of our efforts to protect this national treasure, the Chesapeake Bay. We believe it warrants and should receive the full backing of citizens throughout the Chesapeake Bay watershed. I want to commend you for your leadership in developing this important measure.

Sincerely,
Representative JEFFREY W. COY,
Chairman.

Ms. MIKULSKI. Mr. President, I rise proudly today to strongly support the

legislation introduced by the senior Senator from Maryland.

The Chesapeake Bay Restoration Act is another critical step for all of us who enjoy the bay. This bill will continue the 10 years of progress we have made on the bay.

Mr. President, the Chesapeake Bay is our bay.

For the watermen on the Eastern Shore, the bay is a way to make a living.

For the scientists, the bay is a laboratory to study living things.

For the students, the bay is a hands-on environmental science class.

For everyone who loves the outdoors, the bay is a great place to get away.

And for this Senator from Maryland, the bay has been a place to grow up, relax, and drop a line in the water and fish with my father.

Mr. President, this is the 10th year anniversary of our bay program; 10 years ago three States and the District of Columbia came together to reclaim the Chesapeake Bay.

There was a vision then that was staked out. We had to say "no" to pollution in the bay. We had to say "yes" to restoring the bay's resources.

And over the past 10 years, we know a lot more about how to do that.

We know we have to control nutrients flowing into the bay. We have to give living resources a chance to breathe.

We know where pollution comes from, and by eliminating it, what that will mean for restoring living resources.

To put it bluntly, we've got this down to a science.

Now, we have to make sure we continue to take action. Action to implement what we've learned.

That's what the Chesapeake Bay Restoration Act does.

Mr. President, this bill would develop management plans in the watershed. Plans that would take the data collected, work with the private sector and local governments on implementing a watershed strategy.

This bill provides for better coordination for all the Federal agencies involved. And requires Federal facilities along the bay to make sure they are setting the best example.

Finally, this bill also provides for projects to find low-cost alternatives to restoring and enhancing habitats.

Mr. President, I'm not being parochial when I say our bay is a model for the Nation, a model for the National Estuary Program.

We've come a long way in 10 years. We've disagreed. We've brought together divergent views and we've even solved some problems.

Now is the time to take those lessons we've learned and turn them into real action.

Action that will allow all of us to continue being good neighbors to the environment and good neighbors to our bay.

Mr. WARNER. Mr. President, I am pleased to join my colleagues from the Bay States today to introduce the Chesapeake Bay Restoration Act of 1993. Of course, very special recognition and appreciation should be extended to Senator SARBANES for his leadership in working with officials from all of the bay States to bring this legislation to this point.

I am pleased that we can report that on this 10th anniversary year of the signing of the first Chesapeake Bay Agreement progress has been made in our efforts to save the bay. Oxygen levels in the bay's main channel are up; several pollutants are down; aquatic vegetation is on the rebound; and striped bass have made a significant recovery since the early 1980's.

It is also important to note that phosphorus pollution from point sources has been cut in half in Virginia and Maryland and by nearly one-third in Pennsylvania since 1983. This 35-percent reduction in phosphorus discharges is the result of the phosphate detergent ban now in place in each State and the District of Columbia, new sewage treatment plant construction featuring processes for advanced phosphorus removal, and the Bay Program's unique nonpoint source controls.

However, the tremendous population growth and development in the Chesapeake Bay region in the past two decades coupled with pollution from nonpoint sources continue to negatively impact water quality and wildlife. Recognizing that the bay is still far from being healthy, we are here today to introduce a measure which will significantly improve our chances to restore water quality and productivity to the bay.

The Chesapeake Bay Restoration Act of 1993 not only builds upon the initiatives in previous bay agreements but also addresses the priority needs for the restoration of the bay in future years. This bill includes provisions to: Enhance Federal agency cooperation and coordination; improve Federal facilities compliance; facilitate local and private sector participation in the development and implementation of cooperative watershed and river basin management, conservation, and restoration plans; and demonstrate and showcase various techniques for restoring or enhancing wetlands, submerged aquatic vegetation, and forest riparian zones in the bay.

One of the Chesapeake Bay Program's greatest strengths is in the number and variety of its supporters and contributors. Not only are the representatives from the legislative and executive branches of Maryland, Virginia, Pennsylvania, the District of Columbia, and the Environmental Protection Agency who signed the bay agreements key players in the management of the program. Numerous local governments, 10 Federal agencies, and over 700 active environmental, community, and civic groups lend additional support by promoting bay-related initiatives.

I would also like to emphasize how important and far-reaching the Federal role has and continues to be in this program. Federal involvement—headed by EPA—continues to provide invaluable coordination, oversight, research, and technical assistance to the program. Federal EPA funding, which now amounts to $20 million annually, has fostered hundreds of millions of dollars from State and local governments to the Bay Program.

Because the Chesapeake Bay Program serves as a model for the entire Nation, the Chesapeake Bay Restoration Act of 1993 is deserving of every Senator's endorsement. The Bay Program utilizes structure, management programs, and technologies which are of significance worldwide. The Bay Program leads the Nation in nonpoint source pollution control, nitrogen removal technologies, estuarine modeling efforts, and sediment and erosion control initiatives. It has pioneered beneficial uses of dredged materials and has initiated several model land use programs. The Bay Program's cooperative structure has served as a model for similar programs including Long Island Sound, Lake Champlain, the Gulf of Mexico, the Puget Sound, and Albemarle-Pamlico Sound. In addition, both coastal America and the Coastal Zone Management Non-point Source Regulations owe much of their structure to the Bay Program.

I look forward to seeing that this worthwhile legislation becomes law this Congress.

Mr. ROBB. Mr. President, I rise today in strong support of the Chesapeake Bay Restoration Act of 1993.

I want to commend my distinguished colleague from Maryland, Senator SARBANES, for his hard work and dedication on this issue, and I am pleased to be an original cosponsor of this important initiative.

Mr. President, I have been strongly committed to efforts to clean up the bay since my term as Governor of Virginia.

Since 1983, when the first Bay Agreement was signed, we have made important progress in restoring and preventing further deterioration of the bay.

Phosphorous levels in the bay, are down 35 percent since 1985.

Striped bass stocks are up since the early 1980's.

And submerged aquatic vegetation has made a comeback thanks to improved water quality in the bay.

However, as the population grows in each of the States surrounding the bay and the pressures to develop land increase, it is essential that we continue

to push forward in the bay restoration effort.

Mr. President, the legislation being introduced today is very similar to a measure which I supported in the 102d Congress.

This year's bill would authorize $23 million in Federal funds for fiscal year 1994, and additional funds through fiscal year 1999, for a variety of bay cleanup activities such as research, monitoring, habitat restoration, and toxics reduction.

The bill will make a number of improvements to the current bay program.

Section 4 of the legislation establishes a Chesapeake Bay Federal Agencies Committee to better coordinate Federal support for bay restoration.

Currently, 16 Federal agencies play a role in the bay cleanup; improved coordination will go a long way toward getting the job done.

Section 5 ensures that Federal facilities operating within the bay watershed do not adversely affect the bay.

This is vitally important given the broad Federal presence along the bay, which includes 66 military installations.

Section 6 extends research and monitoring beyond the mainstem of the Chesapeake to its important tributaries, rivers, and streams—reflecting the growing realization that to clean up the bay, we need to improve the conditions of the tributaries that contribute to it.

Section 7 establishes a Habitat Restoration and Enhancement Demonstration Program and section 8 authorizes the EPA to assist the States in the reduction of basinwide toxics.

Mr. President, the introduction of this legislation today marks an exciting new chapter in the bay restoration effort.

It is my hope that with the commitment of a new Democratic administration, the Clean Water Act will be reauthorized this year, and that the Chesapeake Bay Restoration Act will become an important part of that legislation.

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

By Mr. BRYAN (for himself, Mr. McCAIN, and Mr. GORTON):

S. 568. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee Consumer Subcommittee, I will be introducing today legislation to protect consumers from telemarketing fraud. This is the same bill I introduced last year.

Telemarketing is estimated to be a $400 billion industry annually. While most of this volume is from legitimate telemarketers—the L.L. Beans and similar reputable businesses—it is also common knowledge that the telemarketing business can be a fertile ground for fraudulent operators. Unfortunately, as much as $40 billion is estimated to be lost due to fraudulent telemarketing every year. More specific estimates of dollars lost to fraud cannot be ascertained because many victims are too embarrassed to come forward and report their losses to authorities. Visa and Mastercard estimate that their member institutions lose in excess of $300 million per year as a result of telemarketing fraud involving payment by a credit card.

The Consumer Federation of America and the National Association of Consumer Agency Administrators asked State and local consumer protection agencies "what is the worst consumer ripoff and abuse you see?" The response: telemarketing fraud. A report issued by the National Consumers League last year reveals that 92 percent of all Americans received a postcard claiming they had "definitely won a valuable prize;" 29 percent of those people responded. The report also found that more than 5.5 million people have bought something by telephone they now feel was a definite fraud.

In telemarketing fraud, consumers are typically offered goods and services that are what we call too good to be true. The offers include luxury items and fabulous trips, at little or no costs. The consumer is often required to pay in advance, and is generally asked to pay by credit card. The reality, however, is that many of these deals are indeed too good to be true. Items are never delivered, or are not of the value which the consumer was promised. Many of these operations are fly-by-night boiler room shops, whose contact with the consumer is limited to the telephone, and whose mobility permit the consumer no recourse when the goods are deficient or not delivered. The quick movement and deceptive tactics by these scam operators also make it difficult for enforcement and prosecution, particularly for State law enforcement officials.

The sight draft is a new method for fraudulent telemarketing to obtain funds from consumers. This scheme involves a telephone solicitation whereby the telemarketer obtains the consumer's checking account information. A sight draft is prepared by the telemarketer, who then deposits it to the banking system for collection. The consumer's bank processes the draft against the consumer's checking account without written authorization. Often, the consumer does not discover the unauthorized debts for 30 to 45 days. Such fraud has the potential for exposing the banking industry to significant losses.

As I have stated before, the citizens of my own State of Nevada know the problems of telemarketing abuse all too well. During the 1980's, fraudulent telemarketing boiler rooms were a growth industry in Nevada. The State's consumer affairs division has recorded over 15,000 written complaints and over 66,000 telephone inquiries from consumers concerned about such fraud. Estimates show that Nevada consumers lost about $8 million between 1984 and 1989 because of fraudulent telemarketing schemes.

The Nevada State government, together with the Federal strike force, has done an admirable job in attempting to deal with this overwhelming problem. The boiler room industry has gone into sharp decline, from 400 telemarketing firms with 20,000 employees in 1988 to 60 operations with 5,000 salespeople in 1989. Nevada has enacted creative and effective legislation to address this problem, requiring licensing of telemarketers and establishing tough anti-fraud provisions in the securities area, which I was pleased to sign into law when I served as Governor.

The effects of telemarketing fraud, however, are felt throughout the Nation, both by consumers and legitimate telemarketers. The Federal Trade Commission and the National Association of State Attorneys General have both stated that they consider telemarketing fraud a grave threat to consumers, and that the problem is one of their top priorities.

In the last two Congresses, I have introduced legislation to strengthen the FTC's authority, and the ability of State attorneys general, and individual consumers, to combat fraudulent telemarketing. I have been joined in those efforts by Senator McCAIN. Our bill was passed unanimously by the full Senate in the last Congress. Similar legislation introduced by Congressman SWIFT was passed by the House.

Today, I reintroduce legislation to combat telemarketing fraud and ask the Congress to put this bill on a fast track. The terrible costs that fraudulent telemarketing inflicts on innocent victims—whether consumers, legitimate businesses, credit card companies, or others—continue to increase, and Congress should not delay.

The recent criminal sting operation brought by the Federal Bureau of Investigation, whereby 548 individuals and 123 illegal telemarketing operations were identified, represents the most significant criminal telemarketing fraud investigation ever initiated by the FBI. The Bureau is to be commended for its remarkable efforts in this area.

While criminal enforcement of telemarketing fraud is unquestionably necessary and effective, civil enforcement is also vital in the fight against such fraud.

My bill strengthens the enforcement authority of the Federal Trade Com-

mission with respect to fraudulent telemarketing. The legislation broadens the FTC's civil investigative demand authority by permitting the commission to subpoena physical, as well as documentary, evidence. In addition, the bill contains provisions relating to venue, service of process, and criminal contempt authority, which the FTC has stated will assist it in prohibiting fraudulent telemarketing. The legislation also directs the FTC to undertake a rulemaking to prohibit fraudulent and abusive telemarketing activities, which includes credit card laundering.

Equally important, this bill provides a new cause of action for State attorneys general and other State officials, and for private parties, including financial institutions and member organizations of financial institutions.

I will be chairing a consumer subcommittee hearing on March 18 to further address these issues, and to allow the FBI an opportunity to present information to the committee regarding its undercover investigation. The FTC will also provide information regarding fraudulent telemarketing and the legislation introduced today.

Mr. President, this legislation is vitally important. It will protect all consumers, as well as legitimate businesses and financial institutions, from becoming unwilling victims of unscrupulous and fraudulent telemarketers. I ask for the unanimous support of my colleagues and quick passage by this Congress.

Mr. GORTON. Mr. President, I am pleased to cosponsor the Telemarketing and Consumer Fraud and Abuse Prevention Act. This bill takes a reasonable approach to addressing the problems associated with telemarketing fraud.

Telemarketing is one of the fastest growing industries in the United States. In 1986, telemarketing revenues were approximately $118 billion. The industry is comprised of more than 140,000 firms employing 2 million people. Consumers are making increased use of telemarketing, as it allows them to make purchases from their homes.

Although the vast majority of telemarketing firms are legitimate, fraud is a major problem. For example, a Florida company operated a telemarketing investment scam that convinced 13,000 individuals to purchase gold bars, which were to be held in the company's vault. When law enforcement officials closed down the operation, they discovered that the vault contained pieces of wood painted to look like gold bars and money bags filled with shredded paper. Consumers were defrauded out of more than $75 million by this scheme. A report last year by the House Committee on Government Operations concluded that telemarketing fraud may cost society as much as $40 billion annually.

The magnitude of this problem is underscored by the results of a survey conducted last year by the National Consumers League. It found that 92 percent of all Americans had been contacted about a guaranteed prize, and 29 percent had responded to such offers at least once. Sixty-nine percent of those that responded to these notices received no prizes, but most of those that did receive one found them to be worth far less than the promised value.

Combating telemarketing fraud is particularly difficult, since scam artists often operate out of boiler rooms consisting of banks of phone lines on which solicitors place calls to likely prospects. If the scam artists determine that legal action by State or Federal authorities is imminent, the boiler room is packed up and moved to a new location.

This bill addresses this problem through enhanced law enforcement. The legislation provides the Federal Trade Commission [FTC] important enforcement tools that are essential if the Commission is to bring scam artists to justice. For example, the bill expands the Commission's authority to collect financial evidence. This is needed to allow the Commission to follow the money—an axiom of law enforcement. The legislation also modifies the Commission's authority to initiate criminal contempt proceedings against those that repeatedly violate Commission orders. This recognizes that civil remedies are not adequate to deal with those hard-core scam artists who routinely attempt to defraud unwitting consumers.

The bill also enhances FTC enforcement authority by permitting the Commission to subpoena physical evidence in addition to documents, as allowed under current law. Also, the bill amends section 13 of the FTC Act to permit a Federal court to join additional defendants in a civil action even if they have no contacts with the district in which the case is pending. The FTC would be permitted to serve process on defendants wherever the defendants can be found.

In addition to enhancing FTC enforcement authority, the bill seeks to increase the resources available to combat telemarketing fraud. The legislation requires the FTC to promulgate a rule regarding fraudulent telemarketing acts or practices that the FTC and State attorneys general would be authorized to enforce. This authority for State attorneys general is very important because the FTC does not have the resources to address this pervasive problem alone. State law enforcement resources are critical to the national effort to combat telemarketing fraud, and this provision will allow State attorneys general to bring scam artists who have defrauded their citizens to justice, even if the scam artists are located outside that State. A 1989 report by the American Bar Association on the FTC urged the Commission and the States to work cooperatively on national matters such as this. This provision requires State attorneys general to give the FTC prior written notice of his or her intent to file a civil action in order to ensure a cooperative approach to enforcement. In addition, the FTC would have authority to intervene in any lawsuit brought by a State and to file appeals of any court order, and State attorneys general would be prohibited from bringing a civil action during the pendency of an action by the FTC against the same defendant for a violation of the rule.

Last week, the Federal Bureau of Investigation [FBI] concluded a 2-year undercover investigation of telemarketing fraud, which resulted in hundreds of arrests and the exposure of numerous networks of fraudulent activity. The FBI, FTC, and State officials must devote considerable resources to combat this problem because it is pervasive and, tragically, usually very successful. This bill will help provide civil enforcement agencies, Federal and State, the tools they need. Mr. President, I urge my colleagues to support this bill.

Mr. MCCAIN. Mr. President, I am pleased to join my distinguished colleague and good friend from Nevada, Senator BRYAN, in introducing today the Telemarketing and Consumer Fraud and Abuse Prevention Act.

Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has provided American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. Unfortunately, the expansion of the industry has also led to the emergence of telemarketing and consumer fraud.

As we saw with the FBI sting this past weekend, this problem is pervasive and national in scope.

I have focused on the issue of consumer fraud for several years now, particularly on the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on my concern about health care and consumer fraud affecting senior citizens—leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. For the past several years, Senator BRYAN and I have been working together to try and get legislation enacted to combat telemarketing fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can costs lives as

well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these boiler room scams, such as the subjects of the recent FBI sting, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

There are several areas of fraud to which the elderly are particularly susceptible.

First, health fraud is one of our Nation's leading consumer fraud and health care problems. Older Americans, as a group, experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are particularly susceptible to the claims of scam operators.

Health-care fraud can be life threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

Not only is such fraud dangerous to the consumer's health, it is also costly. Current projections by the National Council Against Health Fraud indicate that this activity is costing Americans close to $25 billion a year.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimer's disease—symptoms of senility. At last—now there is hope! Call [this number] for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken half hour before each meal. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, 6 days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleaning is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however Mastercard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tables.

Second, consumer fraud via the television or telephone is another issue of particular concern to older Americans. Consumer items for purchase, and medical and health services are commonly marketed in this manner. While many of these sellers offer legitimate services or merchandise, many times consumers lose by not receiving the ordered item, receiving a copy rather than an authentic item, or by suffering some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items was sent to the company which, in turn, cashed the checks and never delivered the merchandise. The operation generated over 1,300 complaints.

Third, is the area of life-care communities. While life-care communities can be a practical solution to the problem of assuring constant care for the elderly, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has involved the misrepresentation of financial risks, mortgage-lender's interests in the life-care community, and the misuse of the entrance fee financing.

The structure of the life-care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life-care communities remain safe alternatives for senior citizens.

And, last, is the area of credit card laundering. This area of fraud is emerging as a great threat to both consumers and the banking community. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer not receiving the item or receiving an item which is different from the promised item. An additional effect on the banking institutions is that, upon receiving the complaint from the consumer, or upon acquiring the accounts of telemarketing merchants who went out of business, the institutions must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact scenario played out in my State of Arizona with Gateway National Bank in Phoenix which ended up being declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency, Gateway claimed assets of $1 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

The legislation we are introducing today would combat telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing Federal law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

It enhances the enforcement authority of the Federal Trade Commission [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

It identifies credit card laundering as a fraudulent telemarketing act or practice.

It offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing fraud protection for consumers. The rules would include: First, refunds for untimely delivery of goods or services, second, order cancellations, third, time restrictions on unsolicited sales calls, fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately, and fifth, requirements for proper record keeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

It will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

It permits private individuals to sue for violation of the FTC telemarketing

rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

It amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purpose of bringing these cases to court. The definition of physical evidence should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

It requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

And, finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life-care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and help protect senior citizens in particular, who are all too often targeted as victims of fraud. I realize, however, that some of the provisions of this bill may slightly increase redtape for businesses and could nominally increase the price of products or services, but this is one case in which I believe the end result justifies the means. We must provide sufficient tools to the authorities to shut down the crooks that are ripping off, and in some cases threatening the lives, of consumers.

Last week the House of Representatives passed their telemarketing fraud bill. Next week Senator BRYAN and I will be holding a hearing in the Consumer Affairs Subcommittee of Commerce to review the facts behind the FBI sting. I share Senator BRYAN's hope that we will be able to move this legislation in an expeditious manner.

I hope that all of our colleagues will consider supporting this important legislation.

By Mr. GRASSLEY (for himself, Mr. EXON, Mr. DOLE, Mr. KERRY, Mr. BRYAN, Mr. PRESSLER, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mr. HATCH, Mr. THURMOND, Mr. SIMON, Mr. KOHL, Mr. BROWN, Mr. PRYOR, Mr. SASSER, Mr. CONRAD, Mr. WOFFORD, Mr. BOND, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. SMITH, Mr. HARKIN, Mr. D'AMATO, Mr. BINGAMAN, Mr. BUMPERS, Mr. NICKLES, Mr. COCHRAN, Mr. DURENBERGER, Mr. DASCHLE, Mr. MURKOWSKI, Mr. SHELBY, and Mr. RIEGLE):

S. 570. A bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure; to the Committee on Commerce, Science, and Transportation.

LOCAL EXCHANGE INFRASTRUCTURE MODERNIZATION ACT OF 1993

Mr. GRASSLEY. Mr. President, I am delighted to be joined by Senator EXON today to introduce the Local Exchange Infrastructure Modernization Act of 1993. Also joining us as original cosponsors are Senators DOLE, KERRY, BRYAN, PRESSLER, STEVENS, BURNS, LOTT, HATCH, THURMOND, SIMON, KOHL, BROWN, PRYOR, SASSER, CONRAD, WOFFORD, BOND, JEFFORDS, KASSEBAUM, SMITH, HARKIN, D'AMATO, BINGAMAN, BUMPERS, NICKLES, COCHRAN, DURENBERGER, DASCHLE, MURKOWSKI, SHELBY, and RIEGLE.

With this legislation, we are literally paving the road to America's future—to improve our economy, to enhance our world competitiveness, and to maintain our preeminence in the field of telecommunications.

We must take decisive steps to assure that all Americans—rural and urban—share the benefits of a modern telecommunications infrastructure. These benefits include not only expanding job opportunities and consumer services, but also the delivery of social services, education and health care, which are crucial to an improved quality of life.

At the outset, I want to extend my appreciation for the leadership and initiative of the officials and members of the U.S. Telephone Association [USTA] which represents well over 1,100 of America's local telephone companies.

I am also pleased to note that this legislation has the wholehearted support of the National Rural Telecom Association, the National Telephone Cooperative Association, and the Organization for the Protection and Advancement of Small Telephone Companies, who have told me that this bill "is of vital importance to all consumers. It will significantly help in preserving the availability of universal service at reasonable rates on the Nation's local exchange network."

Mr. President, during the 1939 World's Fair, the most popular attraction was General Motor's Futurama exhibit, which provided a glimpse into the year 1960.

Central to that 1939 vision of the future was a system of express highways which would be key to renewing America's cities, developing rural areas, creating new jobs, and improving the efficiency of the economy.

Like many visions, it seemed impossible. But what seemed impossible in 1939, is a reality today.

Our Nation developed a modern system of interstate and State highways which has been crucial to the economic growth of largely rural areas such as my home State of Iowa.

But just as in 1939, today we must have a vision for tomorrow. We must have a vision of a different infrastructure—one just as critical to our ability to compete in the information world.

It is the telecommunications infrastructure that will support the growth of new information-based industries and will permit existing information-intensive industries—such as the insurance industry, which has a major presence in Iowa—to expand and to become more efficient.

Telecommunications infrastructure will enable manufacturers to operate more efficiently and to develop products which will be more competitive in the global marketplace. For example, companies like John Deere, which employs 13,000 families in Iowa, can utilize telecommunications to strengthen its position as a leader in the manufacture of farm machinery and equipment.

The United States is well-positioned generally to compete in a global information economy. We have the best communications infrastructure of any of the world's leading economic powers, including Japan. But how long will this last?

I am concerned that we do not decline from world leader to "also-ran" in the arena of telecommunications.

It was as recently as the end of World War II that almost half of the households in the United States did not have telephone service. The number of "have-nots" was even higher in rural States such as Iowa. But by adopting the right public policies, including the expansion of the Rural Electrification Administration Program, we have seen telephone penetration grow to 93.4 percent nationwide and to 95.6 percent in Iowa.

We must not allow ourselves to slip backward into an area of haves and have-nots. But to assure this, we must take steps to remove impediments to the modernization of the telephone

network and to universal access to advanced network capabilities.

A report prepared for the rural economic policy program of the Aspen Institute identified both the problem and the opportunity for rural America:

What makes telecommunications so attractive as a rural development strategy is its potential for promoting long-term growth, diversification and stability. Rural communities are not just losing their traditional industries; they are not attracting the more specialized entrepreneurial businesses that provide value-added services to niche markets. By investing in an enhanced telecommunications infrastructure that can serve the information-intensive needs of today's businesses, rural America can hitch its wagon to a rising star.

And the Office of Technology Assessment has warned, in its study entitled "Rural America at the Crossroads," that existing "regulatory restrictions and antitrust considerations often prevent or impede" the cooperation by which "telecommunications providers can distribute the high costs and diminish some of the risk of investing in advanced telecommunications technology in rural areas."

Incredibly, in the face of these regulatory and antitrust obstacles, we still expect our Nation's 1,300 local exchange carriers to plan and manage the public switched network, and to do so without the benefit for a formal agreement.

In the aftermath of the breakup of the old Bell System and in an era of increasing competition, we are depending on good will and on voluntary cooperation among all these telephone companies to keep this critical portion of our infrastructure working.

Both of these problems are addressed in the legislation we are introducing today. The Local Exchange Infrastructure Modernization Act of 1993 has two objectives.

First, it will permit coordinated network planning by the local exchange carriers, including the development of standards for interconnection among the local exchange carriers and between those carriers and other telecommunications providers and users.

Second, it will permit the sharing of public switched network infrastructure among the local exchange carriers which is especially important for smaller telephone companies serving rural areas and for the customers of those companies.

Achieving these objectives is extremely important for our Nation as a whole if we are to insure that the public switched network continues to function as an efficient, reliable element of our telecommunications infrastructure. Moreover, it is particularly important for those of us representing states with large rural populations which might otherwise not have access to new network technology or applications.

In its study "Telecommunications in the Age of Information," the National Telecommunications and Information Administration reached the following conclusion:

Historically, the availability of telephone service in this country has been a national concern and the pursuit of 'universal service' has been a long-standing national goal. Americans must renew our commitment to this goal and update it in light of the benefits that today's technologies can bring. * * * The emergence of the world economy has brought with it new requirements for national telecommunications policy. Objectives such as economic development and competitiveness in global markets are becoming as important to the well-being of the U.S. populace as telephone penetration rates.

Mr. President, Congress has the opportunity to take steps now to secure the economic future of this country and to enable all businesses and all households—regardless of whether they are located in our largest metropolis or in our most isolated, rural regions—to share in that future. I urge my colleagues to join us in prompt consideration and passage of the Local Exchange Infrastructure Modernization Act of 1993, which will set us on the right course.

Mr. President, there is one additional point that needs emphasizing. Our legislation is not a Government takeover of our Nation's telecommunications infrastructure. Quite the contrary, it sets up a regulatory playing field from which our existing telephone industry can meet the challenges of the information age. These are the people, not Uncle Sam, who are best suited for the task.

Competition, and the proliferation of networks spawned by competition, are major factors in the relative strength of our telecommunications infrastructure today. However, equally important is the role played by the public switched telephone network.

I am particularly proud of the crucial role small telephone companies play in providing the local exchange portion of this network. Their facilities are among the most advanced in the world and these companies have been instrumental in extending the reach of the telephone network to nearly every household and business in the country.

There are over 150 telephone companies and cooperatives in my State of Iowa. In fact, Iowa has bragging rights to having more telephone companies than any other State.

Through my years of working with the people who own and operate these telephone companies, I have learned firsthand just how critical their role has been in facing the challenges of assuring that Iowans enjoy the technological advances in telecommunications which have come at breakneck speed.

The people behind Iowa's telephone companies care about their communities. They care about the economy, about jobs, and about the future of our children. And they realize that in this fast-moving information age, either rural Americans must get on board or be left behind in the dust. Consequently, they have worked hard to overcome the challenges of advancing technology and the unique obstacles of difficult terrain and sparse population in order to deliver to Iowans state-of-the-art telecommunications services.

The study I mentioned earlier which was completed by the Office of Technology Assessment gave me occasion to be very proud of Iowans who operate and manage our telephone companies. I serve on the congressional board to the OTA, and I had earlier requested that OTA analyze the links between communications technologies and rural economic development. The study is entitled "Rural America at the Crossroads: Networking for the Future."

One portion of the OTA study showcased the successful effort by 128 of Iowa's independent telephone companies to create what we call the Iowa Network Services as an example to be followed by other telephone companies from other States. By joining forces, the Iowa Network Services has been able to provide an independent fiber optic network as well as signaling system seven [SS7], which allows telephone company computers to communicate with each other.

The Local Exchange Infrastructure Modernization Act of 1993 allows the experts, the local exchange company officials, not Government bureaucrats, to take the appropriate lead as we move into the telecommunications "Futurama" of tomorrow.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 570

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 "Local Exchange Infrastructure Modernization Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a ubiquitous high quality public switched network will promote—

(A) universal service at reasonable rates;

(B) the universal availability of advanced public switched network capabilities and information services;

(C) the public health, safety, national defense, education and security and emergency preparedness;

(D) the economic development and quality of life by bringing access to advanced public switched network capabilities to the American people regardless of their location;

(E) new services and motivate new service providers by providing uniform accessibility and interoperability;

(F) the international competitiveness of American industry; and

(G) a seamless, nationwide, coordinated and state-of-the-art public switched network that will enhance the quality of life for all Americans;

(2) the increasing technological complexity and need for ubiquitous infrastructure capability and interoperability of the public switched network requires—

(A) sharing of the public switched network infrastructure and functionality between and among local exchange carriers;

(B) joint coordinated network planning, design and cooperative implementation among all local exchange carriers; and

(C) development of standards for interconnection between the local exchange carrier public switched network and others by appropriate standards-setting bodies;

(3) the access services provided by the local exchange carrier public switched network to competitive carriers, information service providers and others, tie these diverse elements into an interoperable national telecommunications network;

(4) a ubiquitous, advanced local exchange carrier public switched network enhances the function and availability of services provided by all carriers and all other persons accessing the local exchange carrier public switched network; and

(5) it is in the public interest to promote development of the public switched network by local exchange carriers because they—

(A) have universal service obligations for geographically specific serving areas for which they must construct a ubiquitous infrastructure;

(B) provide public switched network services that are subject to regulation with respect to rates, terms and conditions;

(C) must provide network access to their own competitors on nondiscriminatory rates, terms and conditions; and

(D) are suppliers of last resort to customers in their serving areas.

SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

(a) AMENDMENT TO SECTION 1.—Section 1 of the Communications Act of 1934 (47 U.S.C. 151) is amended by designating the existing text of subsection (a), and adding at the end thereof the following new subsection:

"(b) The Commission shall exercise its authority so as to—

"(1) preserve and enhance universal service at reasonable rates;

"(2) achieve universal availability of advanced network capabilities and information services;

"(3) assure a seamless nationwide distribution network through joint network planning, coordination and service arrangements between and among local exchange carriers;

"(4) maintain high standards of quality for advanced network services; and

"(5) assure adequate communication for the public health, safety, defense, education, national security and emergency preparedness.".

(b) AMENDMENT TO SECTION 2.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152) is amended by deleting "227" and inserting in lieu thereof "229".

(c) AMENDMENT TO SECTION 3.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new definitions:

"(hh) The term 'local exchange carrier' means a carrier which—

"(1) is required to provide upon request, under tariff or subject to other government oversight (by the Commission or a State commission), interstate and intrastate access services and telephone exchange service;

"(2) is, or was, a participant in one or more interstate pools established by the Commission, or would have been required to participate in one or more such pools had the carrier been engaged in interstate and intrastate access and telephone exchange service while such participation was mandatory;

"(3) is subject to the requirements imposed by the Commission or a State commission related to the provision of equal access; and

"(4) conforms with the provisions of the North American Numbering Plan applicable to the assignment of numbering resources for telephone exchange service, as defined by the Plan's Administrator.

"(ii) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia).".

(d) AMENDMENT TO TITLE II.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 228. NETWORK PLANNING AND STANDARDS.

"The Commission shall, within 180 days following the date of the enactment of this section, prescribe regulations that require—

"(1) joint coordinated network planning, design and cooperative implementation among all local exchange carriers in the provision of public switched network infrastructure and services; and

"(2) development of standards for interconnection between the local exchange carrier public switched network and others by appropriate standard-setting bodies.

"SEC. 229. INFRASTRUCTURE SHARING ARRANGEMENTS BETWEEN OR AMONG LOCAL EXCHANGE CARRIERS.

"(a) Within 180 days following the date of the enactment of this section, the Commission shall prescribe regulations that require a local exchange carrier to share public switched network infrastructure and functionality with requesting local exchange carriers lacking economies of scale or scope, as defined in subsection (b).

"(b) For the purposes of this section, the term 'local exchange carrier lacking economies of scale or scope' means any local exchange carrier which serves a geographic area for which it lacks economies of scale or scope for the particular required network functionality.

"(c) The regulations governing such sharing between or among local exchange carriers shall—

"(1) promote economically efficient decisionmaking by local exchange carriers;

"(2) not require any local exchange carrier to make any decision that is uneconomic or adverse to the public interest;

"(3) permit, but not require, joint ownership and operation of public switched network infrastructure and services by or among local exchange carriers;

"(4) limit their applicability to local exchange carriers;

"(5) ensure that a local exchange carrier, when sharing any infrastructure or providing any functionality to other local exchange carriers pursuant to this section, shall not be deemed a common carrier for hire when acting in this capacity, and such arrangements shall not be deemed common carrier services by the Commission or by any State commission;

"(6) ensure that fair and reasonable terms and conditions for and in connection with the business arrangement described in this section are determined by local exchange carriers in accordance with general guidelines contained in the regulations prescribed pursuant to this section;

"(7) establish conditions that promote cooperation between local exchange carriers; and

"(8) ensure that all regulatory rights and obligations for and in connection with the business arrangements described in this section shall be determined exclusively in accordance with the regulations prescribed pursuant to this section.

"(d) Nothing in this Act shall be construed to enact into law any economic support currently provided to telephone exchange service or enact into law any prohibition with regard to new economic support mechanisms for telephone exchange service or any service other than telephone exchange service.

"SEC. 23. SIGNALLING.

"Notwithstanding any other law or any restriction or obligation imposed before the date of enactment of this section pursuant to Modification of Final Judgment, no local exchange carrier shall be prohibited from transporting or processing signalling and information for another local exchange carrier in adjoining or reasonably proximate serving areas upon request of that local exchange carrier to the same extent that the providing local exchange carrier is permitted to engage in such activities for itself.

"SEC. 231. INTRASTATE COMMUNICATION.

"Except as provided in section 2, nothing in this Act shall be construed to alter, limit, or supersede the authority of any State with respect to the regulation of intrastate communication service.".

SEC. 4 ANTITRUST IMMUNITY FOR LOCAL EXCHANGE CARRIERS.

(a) Nothing contained in any Federal or State antitrust law shall render unlawful any action taken by a local exchange carrier pursuant to sections 228, 229, and 230 of the Communications Act of 1934, or any individual or concerted action taken, including but not limited to, lobbying before Congress or the Federal Communications Commission or communicating by any means with other local exchange carriers, by any local exchange carrier, or its directors, officers, agents, employees, affiliates, subsidiaries, joint ventures, counsel or other persons purporting to act on behalf of such carrier.

(b) For purposes of this Act, the following terms are defined to mean:

(1) The term "Federal Antitrust Laws" means the Acts known as the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Robinson-Patman Act (15 U.S.C. 13 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), all subsequent amendments of such Act, and any and all other laws which have been or are hereafter enacted to regulate or prevent contracts, combinations, or conspiracies in restraint of trade or monopolistic practices.

(2) The term "State Antitrust Laws" means all laws enacted by States or territories within the United States or their political subdivisions which are patterned after the Federal laws known as the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), The Robinson-Patman Act (15 U.S.C. 13 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), or any subsequent amendments to such Acts, or any other State laws which are not patterned after such Federal Acts or amendments but which are designed to regulate or prevent contracts, combinations, or conspiracies in restraint of trade or monopolistic practices.

SECTION-BY-SECTION ANALYSIS OF THE LOCAL EXCHANGE INFRASTRUCTURE MODERNIZATION ACT OF 1993

SHORT TITLE

Local Exchange Infrastructure Modernization Act of 1993.

FINDINGS

Congress finds that a ubiquitous high quality public switched network is in the public interest; that the technological complexity of the network requires infrastructure sharing, network planning and standardization; and that it is in the public interest to promote development of the public switched network by local exchange carriers.

AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934

The bill adds several new sections to the Communications Act of 1934 including:

Authority

Section 3(a) would add a new subsection (b) to Section 1 of the Communications Act [47 U.S.C. 151]. Section One refers to the purposes of the Act and creates the Federal Communications Commission. New subsection (b) specifies that the Commission shall exercise its authority so as to:

Preserve and enhance universal service at reasonable rates;

Achieve universal availability of advanced network capabilities and information services;

Assure a seamless nationwide distribution network through joint network planning, coordination and service arrangements between and among local exchange carriers;

Maintain high standards of quality for advanced network services; and

Assure adequate communication for the public health, safety, defense, education, national security and emergency preparedness.

Definitions

Section 3(b) adds a new subsection (hh) to the definitions' section, Section 3 of the Act [47 U.S.C. 153]. The new subsection defines the term "Local Exchange Carrier" as a carrier which

Is required to provide interstate and intrastate access services and telephone exchange service upon request;

Is or was a participant in an interstate pool established by the Commission or would have been required to participate had that carrier been engaged in telephone exchange service while such participation was mandatory;

Is subject to the equal access requirements of the FCC or State Commission; and Conforms to the provisions of the North American Numbering Plan.

Analysis

Local exchange carrier is defined so as to include in this Act, carriers that are responsible for maintaining and operating the public switched network.

Section 3(c) adds four new sections to Title II of the Act [47 U.S.C. 201 et. seq.].

Network Planning and Standards

The FCC, within 180 days of enactment, is to prescribe regulations that require:

Joint coordinated network planning, design and cooperative implementation among all local exchange carriers; and

Development of standards for interconnection between the public switched network and others.

Analysis

This section provides explicit authority for local exchange carriers to engage in network planning. This authority is necessary to prevent network outages and to promote the reliability of the public switched network by ensuring that a local exchange network can function in an interoperable manner and that the network will be shaped to meet the heads of all areas and customers.

Infrastructure Sharing Arrangements Between or Among Local Exchange Carriers

Within 180 days of enactment, the Commission must prescribe regulations requiring local exchange carriers to share public switched network infrastructure with requesting local exchange carriers that lack economies of scale necessary to acquire such infrastructure. This section also prescribes the principles that will be required under these regulations.

Analysis

This new section would require local exchange carriers to share infrastructure technology with other local exchange carriers, such as small carriers in rural areas, and allow requesting carriers to gain access to services and facilities that they cannot economically acquire on their own. The purpose is to prevent a situation where two classes of telephone customers are created—information rich and information poor. This section would require local exchange carriers that offer these services and facilities to share their infrastructure with other local exchange carriers that request sharing. This will ensure that customers in all areas of the country can have access to quality telecommunications services.

Nothing in this section would in any way limit the obligation of local exchange carriers ("LEC") to publicize infrastructure information or other information under the FCC's Open Network Architecture ("ONA") requirements. Provisions are made in this bill to require LECs to develop standards of interconnection between LECs and other carriers by appropriate standard setting bodies.

Signaling

This new section makes clear that local exchange carriers shall not be prohibited from transporting or processing signaling and information for and at the request of another local exchange carrier in adjoining or nearby areas.

Analysis

Signaling is an important technical component of an advanced telecommunications network. It functions as a separate network to set up, maintain and disconnect message traffic. Information passed over the signaling network may also inform the local exchange carrier about how the route a call, whom to bill and what features should be provided. The signaling function takes on added importance as more advanced functions, such as new information services, are offered to customers. Signaling infrastructure is very expensive and many local exchange carriers would therefore be unable to offer advanced information services to their customers without the authority granted in this bill.

The Bell Operating Companies ("BOCs") already have an exemption under the "Modification of Final Judgment" ("MFJ") to allow signaling for administrative services they provide for themselves. This section would allow BOCs upon request, to provide the same signaling services for LECs.

Intrastate Communication

This section makes clear that nothing in this bill supersedes state authority over intrastate communication.

Analysis

This section merely reaffirms State jurisdiction over intrastate communication services.

ANTITRUST IMMUNITY FOR LOCAL EXCHANGE CARRIERS

Section 4 provides antitrust immunity under the Sherman Act, Clayton Act, the Robinson-Patman Act, the FTC Act and all State Antitrust Laws for actions taken pursuant to the bill.

Analysis

A narrow antitrust immunity is required to implement the authority granted in the sections on network planning and standardization, infrastructure sharing and signaling. This section is needed so as to permit the contemplated activity to occur, to make clear that it is in the public interest and thus not in violation of the antitrust laws.

Mr. DOLE. Mr. President, I am pleased to join my colleagues on both sides of the aisle in the reintroduction of the Local Exchange Infrastructure Modernization Act.

In my view, the most compelling argument in support of this measure is the fact that it provides fair distribution of telecommunications services to all Americans. As my friends from Iowa and Nebraska have described the technical details of this innovative and far-reaching legislation in great detail, I see no need to repeat them here. Instead, I would like to concentrate on the problems that this measure will solve and the new applications that it will foster.

No doubt about it, the information age is here. The question, however, is who will be able to participate in this new era? I'm glad to say that this bill encompasses both rural and urban America. As I've said in the past, I will not tolerate the creation of an information age that is discriminatory.

Coming from a rural State, I have seen the negative impact of current communications policies. For instance, due to outdated equipment, some Kansans only have access to operator-assisted long distance calls, and many consumers still only have multiline service. It is essential that these systems be upgraded in order to ensure full participation in future services that accompany new technologies.

The current short-falls are not due to the lack of commitment by rural telephone companies. Given the limited ability of small populations to afford new technology and services, I am quite impressed with the many creative advances that have taken place.

This bill directly helps small phone companies by reducing the burden that they operate under every day. It requires that, under appropriate safeguards, network infrastructure and software be fairly shared with small and rural companies. It also provides a mechanism through which large telephone companies' assets can be put at the disposal of those smaller companies serving rural areas, to the benefit of both—and particularly, to the benefit of rural consumers: doctors, teachers, business people, and families.

In short, this measure seeks to rectify past shortcomings and also lays the groundwork for future services. Interactive medical diagnostic capabilities exemplifies the marriage of these two goals. For those who are not familiar with this medical advancement, interactive video eliminates the great distances that once separated

country doctors and specialists in the cities.

This relatively new service has even generated Ripley's Believe It Or Not type stories. One particular case involved a doctor in Hays, KS, who was stumped by a young boy experiencing paralysis of the right side. Unlike a stroke victim, however, the paralysis was sporadic and therefore difficult to diagnose. During one such episode, the doctor and the patient made use of the University of Kansas Medical Center's new link-up site. Two hours later, a specialist 266 miles away diagnosed the condition as a hemiplegic migraine and prescribed the proper medication. The boy is now back on his feet again—all without leaving his hometown.

And these types of facilities are rapidly developing. In just a few weeks, I will be at the dedication ceremony for another such system at St. Francis Regional Medical Center in Wichita.

Mr. President, in closing I would like to note that this bill represents the product of difficult negotiations between interests often opposed, the small independent companies and cooperatives serving rural America on one hand, and the large regional telephone companies on the other. In the end, they found a way, despite their differences, to support a common proposal and pull together for the benefit of rural and other underserved Americans.

It seems to me that we in the Congress should be able to do the same. I urge my colleagues to support and pass this initiative.

Mr. PRYOR. Mr. President, I come to the floor today as an original cosponsor of the Local Exchange Infrastructure Modernization Act of 1993, sponsored by my colleagues Senators GRASSLEY and EXON.

This legislation acts as an outreach to those of us from rural States. In my years in the Senate I have heard from countless Arkansans in rural areas of my State who have had trouble getting even basic telephone services, much less emergency services in their area. In fact, 85 percent of Arkansas is serviced by small, rural phone companies who serve just over 400,000 people.

The Local Exchange Infrastructure Modernization Act of 1992, will require the larger telephone companies to share facilities and services with the smaller companies in rural areas. It will provide valuable services to these areas while encouraging competition and creating economic development.

Mr. President, I am proud to be a cosponsor of this legislation and I urge the Senate to act quickly on its passage.

Mr. BURNS. Mr. President, I am pleased to join my colleagues Senator GRASSLEY and Senator EXON in introducing the Local Exchange Infrastructure Modernization Act of 1993.

In recent years, remarkable strides have been made in communications technology. Advances in our ability to process, transmit and use information are occurring almost daily. And these advances will transform the way we communicate and the way we live our lives.

In order to ensure that all Americans have access to enhanced telecommunications services, local exchange carriers must have the capability to provide these services. But these new services require additional switching and transmission requirements and additional intelligence that, frankly, many telephone companies simply do not have the financial capability to provide. Small telephone companies, especially those in rural areas like in my State of Montana, fear that the doors for advanced telecommunications services will be closed to them and that they will not be able to serve their communities adequately.

The answer to this situation is infrastructure sharing. Infrastructure sharing will make it possible for telephone companies that are economically unable to invest in state-of-the-art switching and transmission equipment to use the enhanced infrastructure of a neighboring telephone company.

Infrastructure sharing has strong support from small and midsized telephone companies which understand that without the ability to tap into an advanced infrastructure, their company will not remain viable in a changing telecommunications market. In the simplest terms, without infrastructure sharing, our small an midsized telephone companies will be left behind in the dust. Without infrastructure sharing, we will become a nation divided into information haves and information have-nots.

A recent report by an economist with the University of Montana hits the nail on the head. The report states there is agreement that a modern telecommunications infrastructure is necessary for rural economic development. Without modern communications links with the rest of the United States and to the rest of the world, rural areas will become economically isolated and economically disadvantaged.

The telephone cooperatives and small independent telephone companies in Montana understand the implications of tapping into advance telecommunications systems and the importance of this to the people of Montana. Since the 1980's, many of our rural phone companies have put in thousands of miles of fiber optic cables in our State and have committed themselves to providing the most advanced telecommunications networks to better serve their customers.

But not all local exchange carriers have the luxury of being able to provide its customers with state-of-the-art technology, and this is where infrastructure sharing comes into play.

As America's telecommunications industry continues to move away from a network that provides just plain old telephone service toward an advanced infrastructure able to carry multiple forms of information, we have a great opportunity to enhance the quality of life for all Americans. It won't happen, however, if we do not ensure that these new telecommunications services are available to everyone, equally.

Afterall, universal service has been the driving force of the telephone industry since the beginning. It should continue to be the driving force as we enter the information age of the 21st century.

Mr. PRESSLER. Mr. President, I am very pleased to join with my distinguished colleague and good friend from Iowa, Senator GRASSLEY, and the distinguished Senator from Nebraska, Senator EXON, as an original cosponsor of the Local Exchange Infrastructure Modernization Act.

Last year's Presidential campaign spawned a number of new buzz words and phrases that mean different things to different people. One of these words is infrastructure. We continue to hear it time and time again, applied in various contexts. We need to modernize and improve our transportation infrastructure—projects that range from repairing a road or bridge to constructing high speed commuter rail systems. The goal is simple: to have a system that enables us to move people and goods quickly and efficiently.

But infrastructure means more than transporting tangible resources by road, rail or air. It also means moving information by wire or signal—at speeds measured in seconds, not miles per hour. Indeed, our Nation's economic viability rests largely on an advanced telecommunications network. Millions of dollars may depend on the ability of an American business to send vital information at the speed of light. Lives may depend on the ability of an American doctor to send vital health care information from coast to coast in a heartbeat.

Mr. President, our telecommunications infrastructure is one of the most important issues this Congress will discuss. Improving quality and access in education and health care will depend on improving quality and access in our telecommunications infrastructure. Nowhere is this more true than in small cities and towns, where telecommunications is the lifeline that links them with the rest of the Nation and the world.

All in Congress agree that the time has come to invest in improving our telecommunications infrastucture. But equally crucial is the assurance that any improvements will be shared by all. Modernizing our telecommunications networks must uplift the entire system, not create a two-tiered system of haves and have-nots.

At present, there is no guarantee that small, local telephone companies

will have access to new information services and technologies. The legislation we are introducing today—the Local Exchange Infrastructure Modernization Act—would provide that guarantee.

Specifically, this legislation addresses the future viability of the public switched network in a number of ways. It would make the preservation and enhancement of universal service a top priority. How? First, it would permit coordinated network planning by local exchange carriers.

Second, it would permit sharing of public switched network infrastructure among local exchange carriers. By doing so, small companies serving small cities would be assured access to new telecommunications technology.

Third, the legislation would remove several antitrust barriers that prevent cooperation between large and small telephone companies. Many of my colleagues will recall that in the last Congress, the Office of Technology Assessment found that existing regulations and antitrust laws work prevent telecommunications firms from taking the risk of investing new technology in less populated areas. The infrastructure modernization legislation would correct this problem.

Mr. President, in the months ahead, this Congress will embark on the difficult task of establishing a telecommunications policy for the next century. Infrastructure will be at the heart of this debate. Many questions need to be answered—questions that are not answered by the legislation we are introducing today.

This legislation is designed to address one portion of a much broader debate, but a portion that is crucial to those of us who represent small States. We are at the dawn of an exciting new era of telecommunications—one where the world literally will be at our fingertips. All Americans should have the opportunity to be a part of this new era. By passing the Local Exchange Infrastructure Modernization Act, we can ensure that some Americans are not left behind.

Mr. EXON. Mr. President, I am pleased to rise in support and as the lead Democratic sponsor of the Local Exchange Infrastructure Modernization Act. This legislation will help preserve universal phone service, assure high quality, advanced phone service for rural citizens and maintain adequate communications ability for health, safety, defense, education and national security purposes.

During the era of the AT&T monopoly, the Bell system worked as a unit to assure that the Nation's phone system was modern, compatible and universal. Since the break up of AT&T under the Reagan administration's Justice Department, there has been a growing risk that the various local exchange carriers' systems would grow incompatible and that new technologies would develop at an uneven pace in various parts of the country. This is especially a problem from small, rural phone systems which have limited financial capability to make major investments in engineering, and capital investments to fill the gap once spanned by the unified AT&T.

The Local Exchange Infrastructure Modernization Act would allow local exchange carriers to engage in joint planning and sharing arrangements to upgrade and maintain the public telecommunications infrastructure. Such cooperation will prevent the danger of various phone systems growing in different directions and at different rates. This cooperation will spread costs and encourage consistent, reliable and seamless telecommunications for all America.

I ask my colleagues to review this important legislation and join in the effort to secure swift passage of the Local Exchange Infrastructure Modernization Act.

By Mr. DURENBERGER (for himself, Mr. MCCAIN, Mr. HELMS, Mr. GRASSLEY, Mr. DANFORTH, Mr. STEVENS, Mr. KEMPTHORNE, Mr. SHELBY, Mr. LUGAR, Mr. PACKWOOD, Mr. COHEN, and Mr. GORTON):

S. 571. A bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. MCCAIN, Mr. GRASSLEY, Mr. DANFORTH, Mr. STEVENS, Mr. KEMPTHORNE, Mr. COCHRAN, Mr. LEVIN, Mr. SHELBY, Mr. LUGAR, Mr. PACKWOOD, Mr. COHEN, and Mr. GORTON):

S. 572. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals; to the Committee on Finance.

SELF-EMPLOYED HEALTH ACTS

Mr. DURENBERGER. Mr. President, at the end of last July, the 25-percent deduction that is allowed for self-employed individual—farmers, small business owners, independent small contractors—will expire.

Today I am introducing legislation that would make this modest tax deduction permanent. I am also introducing legislation that would expand the 25-percent deduction to 100 percent, thereby putting independent business people on a somewhat more equal footing with their counterparts in the corporate sector.

I want to thank my colleagues on both sides of the aisle who have joined me in cosponsoring these bills.

Mr. President, given the choice between these two bills, I would prefer that Congress adopt the legislation expanding the health insurance deduction from 25 to 100 percent. I believe that it is fundamentally unfair that we allow corporate business owners to deduct 100 percent of the cost of their health insurance while allowing sole proprietors, farmers, and other small business owners a mere 25-percent deduction. This unfairness is compounded by that fact that small business owners must pay higher health insurance premiums than their counterparts in the large corporate sector because small businesses cannot take advantage of group pricing structures offered by the insurance industry.

Yet, Mr. President, I recognize that the constraints of a $319 billion Federal deficit make some of my colleagues hesitant about supporting an expansion of the 25-percent deduction. Because of these budgetary constraints, and because it is fundamentally inequitable to have allowed the modest 25-percent deduction to have expired June 30, 1992, I am introducing this extender legislation.

But I will not be satisfied until the day comes when we equalize the tax subsidy for the self-employed with the subsidy we provide the corporate community.

Mr. President, the Joint Committee on Taxation estimates that extending the 25-percent deduction for the self-employed would cost $300 million in 1993, and $2.8 billion over 5 years. With health care costs continuing to rise at more than 12 percent per year, this revenue loss will likely increase this year and over the next 5 years. It is probably fair to say that if we expanded the deduction from 25 to 100 percent, the 1-year cost would likely exceed $1.5 billion, and the 5-year cost could go as high as $11.1 billion. Certainly, these are revenue costs that cannot be ignored, especially at a time when the budget deficit is so devastatingly high.

Yet, the revenue losses associated with the deduction for the self-employed, whether a 25-percent deduction or a 100-percent deduction, should not be viewed in isolation. In comparison with the tax subsidy we provide to the corporate sector, the deduction for the self-employed is a mere drop in the bucket.

For 1991, the 100-percent income tax exclusion for corporate health insurance is estimated to cost the Treasury $33 billion. That is nearly 100 times as costly as the deduction for the self-employed. Over 5 years, the income tax exclusion will cost the Treasury more than $212 billion. But just considering the size of the income tax exclusion for corporate employees does not provide a fair picture of the true cost of this corporate benefit. Health insurance provided to corporate employees is not subject to income tax, nor is it included in determining the wage base for FICA taxes. The 1-year cost of the FICA tax exclusion adds another $22

billion to the subsidy provided to corporate employees. And the 5-year cost is $135 billion. By contrast, the 25-percent cost of health insurance that is deductible by self-employed individuals does not reduce the income base for the self-employed individual's FICA tax.

So, if we are comparing true costs, it would be fair to say that the Treasury is subsidizing the cost of corporate health insurance to the tune of $55 billion in 1991 and $347 billion over 5 years. That compares to less than $3 billion over 5 years for the self-employed.

However, Mr. President, there is one further cost that must be considered in determining the size of the subsidy provided to the corporate sector for providing health insurance. And that cost is the tax savings to corporations resulting from being entitled to deduct 100 percent of the cost of health insurance. The Joint Tax Committee estimates that cost at $43 billion in 1991, and $260 billion over 5 years.

Mr. President, the bottom line is that in 1991, the taxpayer is subsidizing health care provided by corporations at a cost of $98 billion. And over 5 years, the true corporate subsidy is more than $600 billion. When compared with these figures, the modesty of the deduction for the self-employed pales.

Mr. President, I hope I can convince my colleagues on both sides of the aisle of the fairness of raising the deduction for the self-employed to 100 percent. However, if I fail this year, I will return next year and the year after until fairness is achieved. In the meantime, the integrity of the 25-percent deduction must be preserved.

Mr. President, I ask unanimous consent that the text of both of these bills be included in the RECORD.

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

S. 571

Be it enacted by the Senate and House of Representatives of the United States of America Congress assembled,

SECTION 1. PERMANENT INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent".

(b) PERMANENT DEDUCTION.—Section 162(l) of such Code is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall reinstate the 25-percent deduction for July 1 through December 31, 1992, and shall increase permanently to 100 percent the deduction for health insurance expenses effective January 1, 1993.

S. 572

Be it enacted by the Senate and House of Representatives of the United States of America Congress assembled,

SECTION 1. DEDUCTION FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS MADE PERMANENT.

(a) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1992 and permanently extended at this rate.

Mr. GORTON. Mr. President, I am pleased to be an original cosponsor of two pieces of legislation designed to ensure fairness for the farmers and small businesses in my State who pay for their own health insurance.

Current law states that an employer who provides health insurance to his employees can generally deduct the costs of those benefits. Furthermore, the amount the employer paid for the benefits is excluded from the employee's income, and therefore, is not taxed. This is not the case, however, with self-employed individuals. A similar deduction for these people does not exist.

Instead, Congress has enacted a series of temporary extensions, granting a 25-percent deduction for the health insurance costs of the self-employed. The latest extension expired for taxable years beginning after June 30, 1992.

Mr. President, I have heard from many farmers and small businesses in Washington on this unfair tax treatment. They have two concerns. First, the self-employed should be treated in the same manner as other businesses and should be allowed to deduct 100 percent of the costs of health insurance. Second, the deduction needs to be permanent because temporary extensions only inhibit the ability to plan health care packages.

I have listened to their arguments and I agree. The current law levies an unfair burden on entrepreneurs and it must be corrected.

The first bill I am cosponsoring will make the 25-percent deduction permanent. It will provide a measure of certainty for small businesses and farmers. They need the confidence of knowing that they can plan their health care needs around a permanent deduction.

The second bill will provide for a permanent 100-percent deduction of the costs of health insurance. It will equalize the treatment of self-employed individuals with other employers and bring some fairness back into the taxation of farmers and small businesses.

Mr. President, if allowed to choose which bill should pass Congress this year, I obviously would pick the second one. I will push extremely hard for its passage this year. But I also recognize that there are some who, for budgetary or other reasons, may oppose a 100-percent deduction. That is why I also support a 25-percent deduction. I want to at least continue current law so that our farmers and small businesses will reap the benefits of legislation whose goal is within reach.

Our Nation's small businesses and farmers have been stuck at the wrong end of an uneven playing field for too long. They need affordable health care just like the rest of us, and they should not be penalized simply because they are self-employed.

I strongly encourage my colleagues to cosponsor both pieces of legislation.

By Mr. BREAUX (for himself, Mr. DORGAN, Mr. CONRAD, Mr. DURENBERGER, Mr. BOREN, Mr. DANFORTH, and Mr. BAUCUS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to provide for a credit for the portion of employer Social Security taxes paid with respect to employee cash tips; to the Committee on Finance.

FICA TAX LEGISLATION

• Mr. BREAUX. Mr. President, last year I introduced legislation, S. 765 that repealed the FICA tax paid on cash tips earned in excess of the minimum wage. That bill had strong bipartisan support and had 50 cosponsors in the Senate. This strong showing of support resulted in the Congress to adopt, not once, but twice, FICA tip tax relief. What was adopted was a modified version of S. 765. The first time was as a provision of H.R. 4210, the Tax Fairness and Economic Growth Act of 1992. The second time was as a provision of H.R. 11, the Revenue Act of 1992. Unfortunately, President Bush vetoed both of these bills.

The bill I am introducing today is identical to the provision twice passed by Congress and twice vetoed by the President. The bill does not repeal the FICA tax requirement, rather it would provide a tax credit equal to the amount of FICA taxes paid by employers on the cash tips paid to the employee above the minimum wage. The result is roughly equivalent but gives employers ordinary income tax relief instead of payroll tax relief.

S. 765 was restructured due to the budget rules associated with FICA taxes and the Social Security trust fund. Those rules require that any revenue losses to the Social Security trust fund must be made up from within the Social Security system, either through increased payroll taxes or through reduced benefits. Since repealing the FICA taxes paid on cash tips would result in revenue losses to the Social Security trust fund and we did not want to raise payroll taxes or reduce Social Security benefits, the proposal was modified. That modification is what I am introducing today.

This bill is an important small business initiative. The bulk of the restaurant industry is small business. According to 1987 census figures, nearly 80 percent of eating and drinking estab-

lishments have annual sales of less than $500,000. According to a study by the Employment Policies Institute, relief from the FICA tax would create an estimated 39,000 new jobs.

As I said in my statement last year, each time Congress passes a law it is with the implicit understanding that implementation of that law will be reviewed and evaluated. Sometimes Congress makes a mistake. Sometimes it finds it has passed a law that places an unfair burden on certain members of society.

This is, I believe, to be the case under a law adopted in 1987 requiring employers to pay FICA payroll taxes on tips even though tips are not payroll income provided by an employer. FICA taxes are payroll taxes imposed on an employee's wages, half of the tax is withheld from the employee's wages and half of the tax is paid by the employer. The current combined employer/employee FICA tax rate is 15.02 percent.

Tips are compensation provided to an employee by a third party and not by an employer. Congress has struggled with how to treat this special form of compensation for over 200 years. Since 1965 and prior to 1987, Congress properly treated tips as self employment income and required only the employee to pay FICA taxes on reported tips. Employers were required to pay FICA taxes only on wages he paid and the value of the tip credit. The tip credit allowed employers to pay tipped employees less than the minimum wage, provided these employees reported tips equal to or greater than the tip credit amount. The employers were required to pay FICA taxes on wages paid and any tip income used by the employer as a tip credit to meet the minimum wage. This policy was consistent and fair, with tips treated uniformly for both FICA and minimum wage purposes. I believe this policy, Mr. President, was the correct policy and the only fair way to treat tips.

However, in 1987 Congress reversed this policy when it required employers to pay FICA taxes on all reported tips. As a result, tips are treated inconsistently for purposes of the minimum wage laws and for purposes of the FICA tax. This policy has been devastating to the restaurant industry which is made up primarily of small businesses. Clearly, these taxes increase costs, reduce profits, and act as powerful disincentives for job creation by small business.

This requirement also puts restaurant employers in jeopardy of incurring unknown liabilities for taxes, interest, and penalties when employees do not fully report tip income. The 1982 Tax Equity and Fiscal Responsibility Act [TEFRA] requires that certain restaurant employers must annually report information that includes gross receipts, total amount of charge receipts, the total amount of charged tips, and the total amount of tips reported by employees. The TEFRA provision also requires that if the total amount of tip income reported by employees to employers was less than 8 percent of the establishment's total sales, employers must allocate the difference between 8 percent and the reported amount among the individual employees as tip income. This law puts the restaurant employer at the mercy of his tipped worker. Although an employer has no control over the amounts of tips received or reported, if an employee underreport his tips, the employer could be subject to back taxes, penalties, and interest.

The bill I am introducing today would help alleviate the unfair administrative and tax burden placed on these small businessmen. Quite simply, this bill would reinstate the former and longstanding congressional policy, and the only policy that makes sense, that tips in excess of the tip credit are not payroll income. Because of the budget rules mentioned before, that policy must be implemented by giving a credit on ordinary income tax as opposed to providing direct payroll tax relief. The result is to treat tips consistently for purposes of the minimum wage laws and for purposes of imposing the FICA tax.

Mr. President, the average restaurant is not the fancy, high priced restaurant but is the highway truck stop or the local diner. In many rural areas, such as in my State of Louisiana, restaurants are a primary employer. Restaurants have been hard hit by FICA on tips, reducing or eliminating thin profit margins. The industry average pretax profit is 2 to 4 percent of total sales. This tax obviously reduces the after tax profit and takes valuable resources away from job creation. The unfair tax burden now carried by these small businessmen needs lifting and I look forward to working with my colleagues in the Senate toward that end.

I hope that we can once again pass this very important legislation at the earliest opportunity.●

By Mr. LEAHY (for himself, Mr. THURMOND, Mr. BIDEN, Mr. BROWN, Mr. DECONCINI, Mr. HEFLIN, Mr. KOHL, Mr. GRASSLEY, Mr. JEFFORDS, Mr. WOFFORD, Mr. BUMPERS, and Mrs. FEINSTEIN):

S. 574. A bill to amend the National Cooperative Research Act of 1984 with respect to joint ventures entered into for the purpose of producing a product, process, or service; to the Committee on the Judiciary.

NATIONAL COOPERATIVE RESEARCH AMENDMENTS

Mr. LEAHY. Mr. President, today I am pleased to be joined by Senators BIDEN and THURMOND in introducing the National Cooperative Production Amendments of 1993. Similar to S. 1006 of the 101st Congress, and S. 479 in the 102d Congress, this legislation will strengthen the competitiveness, technological leadership and economic growth of the United States by extending the National Cooperative Research Act of 1984 to allow joint production ventures, as well as joint research and development ventures.

As American firms come under increased pressure from fast-paced technological innovation and development abroad, it is more important than ever to make sure that our companies do not function at a disadvantage. The national cooperative production amendments will begin to level the international playing field, without risking harm to the competitive marketplace or the integrity of our antitrust laws.

American scientists and engineers are the world's best innovators. We continue to make scientific breakthroughs and invent new and improved products. But good ideas and breakthrough inventions alone will not spell America's success in global markets. World technological leadership depends on our ability to convert research and development advances into commercial production at a rapid pace. This is often a costly and risky endeavor.

In 1984, Congress passed the National Cooperative Research Act which addressed the significant financial commitment involved in high-technology innovation. That act encouraged American firms to join forces—to share the cost and risk of research and development projects—by clarifying antitrust law regarding combined research ventures. Specifically, the 1984 act applied the rule-of-reason standard to joint research and development ventures so that, if legal action were taken against a venture, a court could consider the competitive benefits of the venture. It also limited antitrust recoveries against joint R&D ventures to single damages and attorneys' fees, if the ventures follow the act's notification procedure.

The National Cooperative Research Act has been a success. Since its enactment, companies have established over 230 joint research ventures to develop everything from chipmaking and steelmaking processes to superconductors. Many argue that the 1984 act was critical to the formation of Sematech, the industry-Government research consortium whose mission is to restore the U.S. world leadership in semiconductor manufacturing technology.

With its success, however, the 1984 act has its limitations. The act does not address the need for joint production ventures and it is precisely in the area of manufacturing that the United States faces its most serious competitive challenges. We must recognize the significance of this country's manufacturing capability by giving joint pro-

duction ventures the same treatment as joint research and development ventures under the National Cooperative Research Act.

While this legislation will benefit American businesses across the board, it will have perhaps the greatest impact on our electronics industry—an industry which employs 2.6 million Americans and which represents a $750 billion global market. Over the past decade, we have witnessed the erosion of America's leadership in hi-tech electronics.

As chairman of the Judiciary Committee's Subcommittee on Technology and the Law, I am particularly concerned about the United States semiconductor industry. I am pleased to see that our semiconductor industry is getting back on track. Considered the crude oil of our electronics chain, semiconductor chips are at the heart of the technology revolution. These tiny silicon wafers are critical to this Nation's economic growth and national security. Nearly every domestic industry depends, directly or indirectly, on the products of the semiconductor industry. Semiconductor chips drive everything from wristwatches, to medical diagnostic equipment, to desk-top computers, to fighter jets. We should all be proud that this important tool is an American invention, and that this crucial industry is back on the rise.

Do American companies understand the significance of their declining share of the global market in several products? In order to regain their competitive edge, are they willing to alter the way they do business? After many discussions with industry representatives, I can say, emphatically, yes. I think the late Bob Noyce, inventor of the integrated circuit and former president of Sematech, said it best when he told my subcommittee that companies simply cannot afford to go it alone anymore. "Cooperation," Bob said, "is not only important for survival today, it's essential."

Some critics of this legislation claim that cooperation means mergers and acquisitions—that it means a boost for the big guy at the expense of our smaller entrepreneurs. This is not the case at all. As a matter of fact, in testimony before the Antitrust Subcommittee, Prof. David Teece of the Berkeley University School of Business emphasized that this legislation would take away the incentives for mergers and acquisitions. It would allow small- to middle-sized firms to maintain their independence and yet join with other companies for R&D and production when a project is too big or too costly or too risky to pursue alone. This Nation's industrial strength depends on the inventive dynamism located in our small enterprises. The National Cooperative Production Amendments of 1993 will guarantee diversity and economic prosperity for all American companies.

Mr. President, we must recognize that our foreign competitors do not labor under the same antitrust restrictions that confront American businesses. Their R&D and manufacturing muscle is unlimited, and their R&D and manufacturing ventures are formed on strictly pragmatic grounds: What is needed and what will work. As a result, they move ahead while the United States falls behind.

I do not believe that joint production ventures are a panacea for this Nation's competitiveness ills. No one blames our decline in international high-technology markets solely on antitrust barriers to cooperation. But joint research, development and production ventures are an important part of our long-term, comprehensive industrial strategy. By passing the National Cooperative Production Amendments of 1993, Congress can remove a significant impediment to the creation of joint production ventures.

Let me emphasize that passage of this bill will not weaken our antitrust laws. By extending rather than supplanting the 1984 R&D Act, this legislation retains the 1984 act's protections against antitrust violations. It retains the 1984 act's notice provisions and underscores the 1984 act's safeguards against price-fixing and market allocation arrangements.

Concerns have been raised about allowing joint production ventures in services. This bill is intended to allow joint ventures in services in a high-technology world where the distinction between products and services is becoming less meaningful. It is intended to allow high-technology services joint ventures that are part and parcel of many emerging technologies and technological products. Joint ventures regarding services such as networks for hand-held communicators, navigation systems or two hospitals working together to design and use new diagnostic imaging systems would be protected under the bill. But this bill is not about allowing joint ventures to provide what are obviously services unconnected to any concrete product. This bill would not protect joint ventures to provide health care or legal services.

In fact, language we included at Senator METZENBAUM's request in section 3 of the bill regarding the integration or use of existing facilities guards against this result. The Metzenbaum language protects against service joint ventures that would in effect be mergers of strict service providers by requiring that existing facilities can be used only if the joint venture is producing a new product.

The bill includes language limiting its protections to joint ventures which locate their principal production facilities in the United States and whose parties are from countries whose law accords antitrust treatment to United States joint venturers no less favorable than the treatment domestic entities receive. This language was the result of extensive negotiations during this Congress and the last Congress between Senators BIDEN, THURMOND, BROWN, and myself in the Senate, and Chairman BROOKS in the House.

I wish to salute these gentleman for their perseverance and ingenuity in reaching the compromise bill that we are introducing in both Houses of Congress today. The result of all this hard work is a bill that will protect and promote American jobs but at the same time acknowledge the beneficial impact that foreign participation can have on production joint ventures. I also wish to acknowledge the contribution of Senator KOHL in emphasizing the location requirements for the production facilities of the production joint ventures.

Mr. President, it is time to level the playing field in the international marketplace. I urge my colleagues to support this proposal and ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 574

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 "National Cooperative Production Amendments Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) technological innovation and its profitable commercialization are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(2) cooperative arrangements among nonaffiliated businesses in the private sector are often essential for successful technological innovation; and

(3) the antitrust laws may have been mistakenly perceived as inhibiting cooperative innovation arrangements that promote competition, and accordingly, clarification of the law would serve a useful purpose in helping to promote such arrangements.

(b) PURPOSE.—It is the purpose of this Act to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by clarifying the applicability of the rule of reason standard and establishing a procedure under which businesses may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damage limitation on civil antitrust liability.

SEC. 3. AMENDMENTS.

(a) SHORT TITLE.—Section 1 of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 note) is amended by striking "National Cooperative Research Act of 1984" and inserting "National Cooperative Research and Production Act of 1993".

(b) DEFINITION.—Section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)) is amended—

(1) in the matter preceding subparagraph (A) by striking "research and development";

(2) in subparagraph (D) by inserting "or production" after "research";

(3) in subparagraph (E) by striking "and (D)" and inserting "(D), (E), and (F)";

(4) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively;

(5) by inserting after subparagraph (C) the following:

"(D) the production of a product, process, or service,

"(E) the testing in connection with the production of a product, process, or service by such venture,"; and

(6) by striking "research" the last place it appears and inserting "such venture".

(c) EXCLUSIONS.—Section 2(b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "research and development";

(2) in paragraph (1) by striking "that is not reasonably required to conduct the research and development that is" and inserting "if such information is not reasonably required to carry out";

(3) by amending paragraph (2) to read as follows:

"(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the marketing, distribution, or provision by any person who is a party to such venture of any product, process, or service, other than—

"(A) the distribution among the parties to such venture, in accordance with such venture, of a product, process, or service produced by such a venture,

"(B) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed under a written agreement entered into before the date of enactment of the National Cooperative Production Amendments Act of 1993, or

"(C) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed under a written agreement entered into on or after the date of enactment of the National Cooperative Production Amendments Act of 1993,";

(4) in paragraph (3)—

(A) in subparagraph (A) by striking "or developments not developed through" and inserting ", developments, products, processes, or services not developed through or produced by";

(B) in subparagraph (B) by striking "such party" and inserting "any person who is a party to such a venture"; and

(C) by striking the period at the end and inserting a comma; and

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

"(4) entering into any agreement or engaging in any other conduct allocating a market with a competitor,

"(5) exchanging information among competitors relating to production (other than production by such venture) of a product, process, or service if such information is not reasonably required to carry out the purpose of the venture,

"(6) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production (other than the production by such venture) of a product, process, or service,

"(7) using existing facilities in connection with the production of a product, process, or service by the venture unless the use is for the production of a new product or technology, and

"(8) except as provided in paragraphs (2), (3), and (6), entering into any agreement or engaging in any other conduct to restrict or require participation by any person who is a party to the venture, in any unilateral or joint activity that is not reasonably required to carry out the purpose of the venture.".

(d) RULE OF REASON STANDARD.—Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended—

(1) by striking "research and development" the first place it appears;

(2) by striking "and development" the last place it appears and inserting ", development, product, process, and service"; and

(3) by adding at the end the following:

"For the purpose of determining a properly defined, relevant market, worldwide capacity shall be considered to the extent that it is appropriate in the circumstances.".

(e) TECHNICAL AMENDMENTS.—The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) in section 4 (a)(1), (b)(1), (c)(1), and (e) by striking "research and development" each place it appears; and

(2) in section 5(a) in the matter preceding paragraph (1) by striking "research and development".

(f) DISCLOSURE.—Section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305) is amended—

(1) in the heading by striking "RESEARCH AND DEVELOPMENT";

(2) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ", and"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) if a purpose of the venture is the production of a product, process, or service described in section 2(a)(6)(D), the identity and nationality of any person who is a party to the venture or who controls any party to the venture, whether separately or with 1 or more other persons acting as a group for the purpose of controlling that person."; and

(3) in subsections (a), (d)(2), and (e) by striking "research and development" each place it appears.

(g) LIMITATION.—The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended by adding at the end the following new section:

"APPLICATION OF SECTION 4 PROTECTIONS TO PRODUCTION OF PRODUCTS, PROCESSES, AND SERVICES

"SEC. 7. Notwithstanding sections 4 and 6, the protections of section 4 shall not apply with respect to a joint venture's production of a product, process, or service described in section 2(a)(6)(D) unless—

"(1) the principal facilities for such production are located in the United States or its territories, and

"(2) each person who controls any party to the venture (including the party itself) is a United States person, or a foreign person from a country the law of whom accords antitrust treatment no less favorable to United States persons than to that country's domestic persons with respect to participation in joint ventures for production.".

SEC. 4. REPORTS ON JOINT VENTURES AND UNITED STATES COMPETITIVENESS.

(a) PURPOSE.—The purpose of the reports required by this section is to inform Congress and the American people of the effect of the National Cooperative Research and Production Act of 1993 on the competitiveness of the United States in key technological areas of research, development, and production.

(b) ANNUAL REPORT BY THE ATTORNEY GENERAL.—In the 30-day period beginning at each 1-year interval after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate—

(1) a list of joint ventures for which notice was filed under section 6(a) of the National Cooperative Research and Production Act of 1993 during the 12-month period for which the report is made, including the purpose of each joint venture and the identity and nationality of each party to the joint venture as described in that section; and

(2) a list of cases and proceedings brought during that period under the antitrust laws by the Department of Justice and the Federal Trade Commission with respect to joint ventures for which notice was filed under that section at any time.

(c) TRIENNIAL REPORT BY THE ATTORNEY GENERAL.—In the 30-day period beginning at each 3-year interval after the date of enactment of this Act, the Attorney General, after consultation with such other agencies as the Attorney General considers to be appropriate, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate—

(1)(A) a description of the technological areas of research, development, and production most commonly pursued by joint ventures for which notice was filed under section 6(a) of the National Cooperative Research and Production Act of 1993 during the 3-year period for which the report is made; and

(B) an analysis of the trends in the competitiveness of United States industry in those areas; and

(2) a supplement to the report submitted by the Attorney General under subsection (d) reflecting changes in antitrust treatment of joint ventures under the laws of other nations.

(d) REVIEW OF ANTITRUST TREATMENT UNDER FOREIGN LAWS.—Not later than 1 year after the date of enactment of this Act, the Attorney General, after consultation with such other agencies as the Attorney General considers to be appropriate, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the antitrust treatment of United States businesses that are parties to joint ventures under the law of each foreign nation in which there is operating a business that filed notice under section 6(a) of the National Cooperative Research and Production Act of 1993.

Mr. THURMOND. Mr. President, I am pleased to join Senators LEAHY, BIDEN, and several other of my colleagues in reintroducing the National Cooperative Production Amendments Act of 1993. This legislation is similar to a bill passed by the Senate last year and amends the National Cooperative Research Act of 1984 [NCRA] by extending its provisions to include manufacturing as well as research and development. The 1984 act enjoyed broad bipartisan support and I am hopeful that the same will be true for this act.

Mr. President, competition in worldwide markets is strong and is getting stronger every year. It is my expectation that these amendments will enable American businesses to respond more effectively to the competitive challenges that face them in international markets. American firms can-

not afford to settle for less than the most advanced means of manufacturing and production if they are to be successful in this challenge. Although costly, substantial investments must be made in state-of-the-art facilities. Joint manufacturing ventures will ease such investment burdens, and may provide just the answer for firms which cannot make the needed investments in new production technology, but do not want to merge their entire operations to achieve the benefits such ventures provide.

Mr. President, in 1984, Congress passed the National Cooperative Research Act in the hopes of addressing some of these very concerns. That act has two simple features: first, it guarantees that joint research and development ventures, if they are ever called into question under the antitrust laws, will be analyzed under the rule of reason standard so that the competitive benefits of such ventures can be considered; and, second, antitrust liability with respect to a joint venture disclosed to the government, is limited to actual damages plus pre-judgment interest.

The NCRA, although limited to research and development, has proven to be very successful. It is my understanding that well over 200 joint research and development ventures have been undertaken under the auspices of the NCRA protections. Mr. President, I hope that we will shortly enact these proposed amendments to the NCRA. It is time for us to extend the same benefits and the same encouragement to manufacturing joint ventures. I urge my colleagues to carefully study this legislation we are introducing today and support its adoption.

Mr. President, there is one last point that should be made. This bill, like the 1984 act it amends, does not provide an antitrust immunity. Nor does it weaken antitrust enforcement. It only clarifies that these production joint ventures, if challenged under the antitrust laws, are subject to rule of reason treatment, and will be subject to actual, rather than treble damages. I think this distinction is an important one to remember, especially since it is erroneously, but frequently stated, that this legislation creates an antitrust immunity.

As I noted at the outset, Mr. President, the 1984 act received strong bipartisan support. I am pleased that this bill has also been the product of much bipartisan cooperation. It is now time to take the next step and to extend the benefits of the 1984 act to production joint ventures.

By Mr. KENNEDY (for himself and Mr. METZENBAUM):

S. 575. A bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH REFORM ACT

Mr. KENNEDY. Mr. President, 23 years ago, when Congress enacted the Occupational Safety and Health Act, we committed this Nation to take the steps necessary to assure as far as possible a safe and healthy workplace for every American. The act represented a broad, bipartisan response to the unconscionable number of workers being killed, injured, or made ill as a result of hazardous working conditions.

We have made significant strides in improving workplace safety in the intervening years. Sadly, however, we still have much to do to make the promise of the OSH Act a reality for millions of working Americans. The toll exacted by workplace accidents and by workplace exposure to toxic substances continues to be staggering. Each year, 10,000 workers die from accidents on the job. As many as 100,000 more die from workplace illnesses, and nearly seven million more are injured. This suffering was brought into tragic focus in September 1991, when 25 workers lost their lives in Hamlet, NC in a fire at a chicken processing plant.

The toll on our economy is appalling. In too many workplaces across America, OSHA is a no-show. Costs include the loss of productive work time, burdens on health insurance and other private insurance plans, and the strain on workers' compensation and public safety-net programs. A recent study found that work-related injuries cost the Nation more than $83 billion in 1989, or nearly 2 percent of the GNP.

In the last Congress, the Committee on Labor and Human Resources and the Subcommittee on Labor conducted five hearings on OSHA reform and on measures that can and should be taken to improve workplace health and safety. The testimony demonstrated that the Federal Government can create a new and productive partnership with employers and employees to identify and remedy workplace hazards before injuries and illnesses occur.

The Labor Committee reported S. 1622, the Comprehensive Occupational Safety and Health Reform Act, last September, but Congress adjourned before the full Senate could consider it.

Today, Senator METZENBAUM and I are reintroducing the bill, and we look forward to working with the administration, with Senators from both sides of the aisle, and with labor and management to undertake the first major revision of the Occupational Safety and Health Act in 23 years.

Front and center on the legislative agenda in this Congress is the reform of the Nation's health care system. In order for that effort to be successful, we must provide Americans with greater protection against workplace hazards. We know the critical importance of preventive health care, such as ensuring that all children receive proper immunizations. It is equally true that preventing the mothers and fathers of those children from suffering work-related injuries and illnesses can play an important role in reining in the excessive human and economic costs associated with our health care crisis. As a panel of health professionals, Federal officials, and employer and employee representatives convened by the Centers for Disease Control and Prevention stated in 1991, "occupational injury is a public health crisis that demands immediate attention."

The bill we are introducing will empower employers and employees to address workplace hazards in a reasonable and realistic fashion. It requires employers to develop written safety and health programs, and greatly expands the opportunity for employers and employees to receive educational and technical assistance, with particular emphasis on providing assistance to small businesses.

The tragedy in Hamlet, NC, might well have been avoided if the plant had adopted a fire safety program. When a fire occurred at a similar plant in Mt. Pleasant, TX, the employer's health and safety program enabled all employees to exit safely.

The bill also requires joint employer-employee safety and health committees to be established at worksites with 11 or more employees. This mechanism has been widely used in this country and in European countries, and has been shown to be an effective tool in promoting health and safety.

The bill expedites the standard-setting process at OSHA, requires employers cited for certain serious violations to act promptly to abate the hazards, requires better targeting of OSHA's limited resources to high-risk workplaces, and expands coverage of the Act to Federal, State, and local government employees.

In his confirmation hearing, Secretary of Labor Reich emphasized that one of President Clinton's central goals is to create jobs that provide a good work environment. The prompt and bipartisan passage of the Family and Medical Leave Act was a first step in creating the improved work environment needed for the 21st century. Passage of the Comprehensive Occupational Safety and Health Reform Act will be another important step toward that goal, and I urge my colleagues to support it.

I ask unanimous consent that the text of the bill and a summary be printed in the RECORD in their entirety.

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

S. 575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Occupational Safety and Health Reform Act".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.

TITLE I—SAFETY AND HEALTH PROGRAMS

Sec. 101. Safety and health programs.

TITLE II—SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES

Sec. 201. Safety and health committees and employee safety and health representatives.
Sec. 202. Employee participation in inspections.

TITLE III—COVERAGE

Sec. 301. Extension of coverage to public employees.
Sec. 302. Application of Act.
Sec. 303. Application of OSHA to DOE nuclear facilities.
Sec. 304. Extension of employer duties to all employees working at a place of employment.

TITLE IV—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sec. 401. Time frames for setting standards.
Sec. 402. Basis for standards.
Sec. 403. Recording of work related adverse medical conditions.
Sec. 404. Public disclosure of all communications on standards.
Sec. 405. Revision of permissible exposure limits.
Sec. 406. Exposure monitoring and health surveillance.
Sec. 407. Standard on ergonomic hazards.
Sec. 408. Emergency temporary standards.
Sec. 409. Air Contaminants.

TITLE V—ENFORCEMENT

Sec. 501. No loss of employee pay for inspections.
Sec. 502. Time frame for response to complaints.
Sec. 503. Complaints.
Sec. 504. Mandatory special emphasis.
Sec. 505. Investigations of deaths and serious incidents.
Sec. 506. Abatement of serious hazards during employer contests.
Sec. 507. Right to contest citations and penalties.
Sec. 508. Right of employee representatives to participate in other proceedings.
Sec. 509. Objections to modification of citations.
Sec. 510. Imminent danger inspections.
Sec. 511. Citations and penalties for violations of sections 27, 28 and 31.
Sec. 512. OSHA criminal penalties.
Sec. 513. Commission member's terms.
Sec. 514. Inspections.
Sec. 515. Employee accountability.

TITLE VI—PROTECTION OF EMPLOYEES FROM DISCRIMINATION

Sec. 601. Antidiscrimination provisions.
Sec. 602. Posting of employee rights.

TITLE VII—OSHA TRAINING AND EDUCATION

Sec. 701. Technical assistance to employers and employees.
Sec. 702. OSHA assistance fund.

TITLE VIII—RECORDKEEPING AND REPORTING

Sec. 801. Data collected by Secretary.
Sec. 802. Employee reported illnesses.
Sec. 803. Employee access.

TITLE IX—NIOSH

Sec. 901. Hazard evaluation reports.
Sec. 902. Safety research.
Sec. 903. Contractor rights.
Sec. 904. National surveillance program.
Sec. 905. Establishment of NIOSH as a separate agency within Public Health Service.
Sec. 906. NIOSH training.

TITLE X—STATE PLANS

Sec. 1001. State plan committees and programs.
Sec. 1002. Access to information; employee rights.
Sec. 1003. Application of Federal standards.
Sec. 1004. Complaints against a State plan.
Sec. 1005. Action against a State plan.
Sec. 1006. State plan conforming amendments.
Sec. 1007. Effect on State law.

TITLE XI—VICTIMS' RIGHTS

Sec. 1101. Victims' rights.

TITLE XII—CONSTRUCTION SAFETY

Sec. 1201. Short title.
Sec. 1202. Definitions.
Sec. 1203. Office of Construction Safety, Health, and Education.
Sec. 1204. Construction safety and health plans and programs.
Sec. 1205. Inspections, investigations, reporting, and recordkeeping.
Sec. 1206. Advisory Committee on Construction Safety and Health.
Sec. 1207. State construction safety and health plans.
Sec. 1208. Construction Safety and Health Academy.
Sec. 1209. Enforcement.
Sec. 1210. Reports to Congress.
Sec. 1211. Federal construction contracts.
Sec. 1212. Relationship to existing law and regulations.
Sec. 1213. Timetable for regulations.

TITLE XIII—ADMINISTRATION

Sec. 1301. Administration.

TITLE XIV—EFFECTIVE DATE

Sec. 1401. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) during the past two decades progress has been made in reducing workplace deaths, injuries, and exposure to toxic substances through efforts of Federal agencies, States, employers, employees, and employee representatives;

(2) despite the progress described in paragraph (1), work-related injuries, illnesses, and deaths continue to occur at rates that are unacceptable and that impose a substantial burden upon employers, employees, and the Nation in terms of lost production, wage loss, medical expenses, compensation payments, and disability;

(3) employers and employees are not sufficiently involved in joint efforts to identify and correct occupational safety and health hazards;

(4) employers and employees require better training to identify safety and health problems;

(5) mandatory regulation is necessary to protect employees from health and safety hazards but Federal agency standard setting has not kept pace with knowledge about such hazards;

(6) enforcement of occupational safety and health standards has not been adequate to bring about timely abatement of hazardous conditions or to deter violations of occupational health and safety standards;

(7) millions of employees exposed to serious occupational safety and health hazards are excluded from full coverage under the Occupational Safety and Health Act of 1970; and

(8) the lack of accurate data and information on work-related deaths, injuries, and illnesses has impeded efforts to prevent such deaths, injuries, and illnesses.

(b) PURPOSES.—The purposes of this Act are to—

(1) increase the joint participation of employers and employees in identifying and correcting occupational safety and health hazards, by requiring the establishment of employer safety and health programs, joint employer-employee safety and health committees, and training and education programs;

(2) improve and expedite the setting of occupational safety and health standards;

(3) strengthen Federal and State agency enforcement of violations of safety and health standards;

(4) assure that all employees are afforded full coverage and protection from safety and health hazards under the Occupational Safety and Health Act of 1970 or other Federal laws; and

(5) improve information and data on work related injuries, illnesses and fatalities for purposes of enhancing occupational safety and health.

TITLE I—SAFETY AND HEALTH PROGRAMS

SEC. 101. SAFETY AND HEALTH PROGRAMS.

Section 27 (29 U.S.C. 676) is amended to read as follows:

"SEC. 27. SAFETY AND HEALTH PROGRAMS.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Each employer shall, in accordance with this section, establish and carry out a safety and health program to reduce or eliminate hazards and to prevent injuries and illnesses to employees.

"(2) MODIFICATIONS TO SAFETY AND HEALTH PROGRAMS.—The Secretary may by regulations issued under subsection (c)(1) modify the requirements of this section with respect to classes of employers where the Secretary determines that, in light of the nature of the risks faced by the employers' employees, such a modification would not reduce the employees' safety and health protection.

"(3) DEFINITION OF WORKSITE.—As used in this section and section 28, the term 'worksite' means a single physical location where business is conducted or where operations are performed by employees of one or more employers.

"(b) REQUIREMENTS.—A safety and health program established and carried out under subsection (a) shall be a written program that shall include—

"(1) methods and procedures for identifying, evaluating, and documenting safety and health hazards;

"(2) methods and procedures for correcting the safety and health hazards identified under paragraph (1);

"(3) methods and procedures for investigating and recording work-related deaths, injuries, and illnesses;

"(4) methods and procedures for providing occupational safety and health services, including emergency response and first aid procedures;

"(5) methods and procedures for employee participation in the implementation of the employer's safety and health program, including (where applicable) participation through a safety and health committee established under section 28;

"(6) methods and procedures for providing a timely response in writing to the recommendations of the safety and health committee, where applicable;

"(7) methods and procedures for providing safety and health training and education to employees and to members of a safety and health committee established under section 28 (where applicable);

"(8) the designation of one or more representatives of the employer who have the qualifications and responsibility to identify safety and health hazards and the authority to initiate corrective action where appropriate;

"(9) in the case of a worksite where employees of two or more employers work, procedures for each employer to protect employees at the worksite from hazards under the employer's control, including procedures to provide information on safety and health hazards to other employers and employees at the worksite; and

"(10) such other provisions as the Secretary requires to effectuate the purposes of this Act.

"(c) REGULATIONS ON EMPLOYER SAFETY AND HEALTH PROGRAMS.—

"(1) IN GENERAL.—Within 1 year of the date of enactment of the Comprehensive Occupational Safety and Health Reform Act, the Secretary shall issue final regulations on employer safety and health programs required by subsection (a), which shall take effect no later than 18 months after such date of enactment.

"(2) REGULATIONS ON TRAINING AND EDUCATION.—The regulations of the Secretary under paragraph (1) with respect to an employer's safety and health program shall—

"(A)(i) provide for training and education of employees at the time of employment, in a manner that is readily understood by such employees, concerning safety and health hazards, control measures, and the employer's safety and health program;

"(ii) provide for the dissemination of information to employees at the time of employment, in a manner that is readily understood by such employees, regarding employee rights and applicable laws and regulations; and

"(iii) provide for training and education of employees who are selected to be safety and health committee members, at the time of their selection, that is necessary to enable such employees to carry out the activities of the committee under section 28; and

"(B) require that refresher training and dissemination of information be provided on at least an annual basis and that additional training and dissemination of information be provided to affected employees and to safety and health committee members when there are changes in conditions or operations that may expose such employees to new or different safety or health hazards or when there are changes in safety and health regulations or standards under this Act that apply to the employer.

"(3) COORDINATION OF PROGRAMS.—The regulations of the Secretary under paragraph (1) shall provide that any specific program or training requirements imposed by regulations under section 6 may be combined or coordinated with an employer's safety and health program.

"(4) NO LOSS OF PAY.—The time during which employees are participating in training and education provided in accordance with the regulations of the Secretary shall be considered hours worked for purposes of wages, benefits, and other terms and conditions of employment. The training and education shall be provided by the employer at no cost to the employer's employees.".

TITLE II—SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES

SEC. 201. SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES.

Section 28 is amended to read as follows:

"SEC. 28. SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES.

"(a) PURPOSE.—The purpose of this section is to bring employees and employers together in a nonadversarial, cooperative effort to promote safety and health in each worksite. A safety and health committee established under subsection (b) is intended to assist the employer and make recommendations regarding methods of addressing safety and health hazards.

"(b) SAFETY AND HEALTH COMMITTEE ESTABLISHMENT.—Each employer who has 11 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year shall establish a safety and health committee (hereafter in this section referred to as the 'safety and health committee') at each worksite of the employer, except as provided in subsection (e)(2).

"(c) RIGHTS OF COMMITTEE AND COMMITTEE MEMBERS.—

"(1) IN GENERAL.—Each safety and health committee shall have the right, within reasonable limits and in a reasonable manner, to—

"(A) review the employer's safety and health program established under sections 27 and 31 (where applicable);

"(B) review incidents resulting in work-related deaths, injuries, and illnesses and complaints regarding safety or health hazards by employees or safety and health committee members;

"(C) review, upon a request made to the employer by any safety and health committee member, the employer's work injury and illness records, other than personally identifiable medical information, and other reports or documents relating to occupational safety and health;

"(D) conduct inspections of the worksite at least once every 3 months and in response to complaints regarding safety or health hazards by employees or safety and health committee members;

"(E) conduct interviews with employees in conjunction with inspections of the worksite;

"(F) conduct meetings at least once every 3 months and maintain written minutes of such meetings;

"(G) observe the measurement of employee exposure to toxic materials and harmful physical agents; and

"(H) establish procedures for exercising the rights of the safety and health committee; to the employer for improvements in the employer's safety and health program and for the correction of hazards to employee safety or health.

"(2) RECOMMENDATIONS.—Each safety and health committee and each member of the committee shall have the right to—

"(A) make recommendations to the employer for improvements in the employer's safety and health program and for the correction of hazards to employee safety or health; and

"(B) receive from the employer a timely written response to any such recommendation.

Recommendations under this paragraph shall be advisory only and the employer shall retain full authority to manage the worksite.

"(3) TIME FOR COMMITTEE ACTIVITIES.—The employer shall permit members of the safety and health committee to take such time from work as is reasonably necessary to exercise the rights of the committee, without suffering any loss of wages, benefits, and other terms and conditions of employment for time spent on duties of the committee.

"(d) COMMITTEE MEMBERSHIP.—

"(1) MEMBERSHIP.—Each safety and health committee shall consist of the employee safety and health representatives selected or appointed under paragraph (3) and up to an equal number of employer representatives.

"(2) EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES.—Except as provided in subsection (e)(2), each safety and health committee shall, at a minimum, include—

"(A) one employee safety and health representative at each worksite where the average number of nonmanagerial employees of the employer during the year ending January 1 was more than 10, but less than 51;

"(B) two representatives where the number of such employees was more than 50 but less than 101; and

"(C) an additional employee safety and health representative for each additional 100 such employees, up to 6 employee safety and health representatives.

"(3) SELECTION.—The employer's nonmanagerial employees shall select employee safety and health representatives by and from among themselves as follows:

"(A) Where none of the employer's employees at a worksite are represented by an exclusive bargaining representative, the employees shall select employee safety and health representatives.

"(B) Where the employer's employees are represented by a single exclusive bargaining representative, the bargaining representative shall designate the employee safety and health representatives.

"(C) Where the employer's employees are represented by more than one exclusive representative or where some but not all of the employees are represented by an exclusive representative, each bargaining unit of represented employees (and any residual group of unrepresented employees) shall have a proportionate number of employee safety and health representatives based on the number of employees in each bargaining unit or group, except that each such unit or group of 11 or more employees shall have at least one representative. The selection process shall be conducted in accordance with the provisions of subparagraph (A) or (B) as applicable.

"(4) PROTECTION OF EMPLOYEE RIGHT.—An employee's right to seek to be an employee safety and health representative and to otherwise participate in the selection process without being subject to penalties, discipline, employer interference, or reprisal of any kind shall be protected.

"(e) REGULATIONS.—Within 1 year of the date of enactment of the Comprehensive Occupational Safety and Health Reform Act, the Secretary shall issue regulations on safety and health committees. Such regulations

shall be effective within 18 months of the date of enactment. Such regulations shall include provisions on—

"(1) the functioning of committees, including selection of employee safety and health representatives, the terms of such representatives, and the maintenance of records; and

"(2) the functioning of committees, including the number and selection of employee safety and health representatives—

"(A) where an employer's employees do not primarily report to or work at a fixed location;

"(B) with regard to worksites where less than 11 employees of a covered employer are employed; and

"(C) with regard to worksites where employees of more than one employer are employed.

"(f) ADDITIONAL RIGHTS.—The rights and remedies provided to employees and employee safety and health representatives by this section are in addition to, and not in lieu of, any other rights and remedies provided by contract, by other provisions of this Act, or by other applicable law, and are not intended to alter or affect such rights and remedies.".

"(g) CONSTRUCTION.—A safety and health committee established under and operating in conformity with this section shall not constitute a labor organization within the meaning of section 2(5) of the National Labor Relations Act or a representative within the meaning of section 1, sixth, of the Railway Labor Act.".

SEC. 202. EMPLOYEE PARTICIPATION IN INSPECTIONS.

Section 8(e) (29 U.S.C. 657(e)) is amended to read as follows:

"(e) Subject to regulations issued by the Secretary, a representative of the employer and a designee of the employee safety and health representatives shall be given an opportunity to accompany the Secretary or the Secretary's authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where no employee safety and health representatives have been selected, a representative authorized by the employer's employees shall be given an opportunity to accompany the Secretary in lieu of the designee of the employee safety and health representatives. Where there is no authorized employee representative, the Secretary or the Secretary's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.".

TITLE III—COVERAGE

SEC. 301. EXTENSION OF COVERAGE TO PUBLIC EMPLOYEES.

(a) DEFINITION OF EMPLOYER.—Section 3(5) (29 U.S.C. 652(5)) is amended by striking out "but does not include" and inserting in lieu thereof "including".

(b) CONFORMING AMENDMENTS.—

(1) Section 19 (29 U.S.C. 668) is repealed.

(2) Section 410(b) of title 39, United States Code, is amended by striking out paragraph (7) and inserting in lieu thereof the following new paragraph:

"(7) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);".

SEC. 302. APPLICATION OF ACT.

Section 4(b) (29 U.S.C. 653(b)(1)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively; and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(b)(1) Where a Federal agency has promulgated and is enforcing standards or regulations affecting occupational safety or health of some or all of the employees within that agency's regulatory jurisdiction, and the Secretary determines that such a standard or regulation as promulgated and the manner in which the standard or regulation is being enforced provides protection to those employees that is at least as effective as the protection provided to those employees by the Secretary's enforcement of this Act, the Secretary may publish a notice in the Federal Register setting forth that determination and the reasons for the determination and certifying that the Secretary has ceded jurisdiction to that Federal agency with respect to the specified standards or regulations affecting occupational safety and health. In determining whether to cede jurisdiction to a Federal agency, the Secretary shall seek to avoid duplication of, and conflicts between, health and safety requirements. Such certification shall remain in effect unless and until rescinded by the Secretary.

"(2) The Secretary shall, by regulation, establish procedures by which any person who may be adversely affected by a decision of the Secretary certifying that the Secretary has ceded jurisdiction to another Federal agency pursuant to paragraph (1) may petition the Secretary to rescind a certification under paragraph (1). Upon receipt of such a petition, the Secretary shall investigate the matter and shall, within 90 days after receipt of the petition, publish a decision with respect to the petition in the Federal Register.

"(3) Any person who may be adversely affected by—

"(A) a decision of the Secretary certifying that the Secretary has ceded jurisdiction to another Federal agency pursuant to paragraph (1); or

"(B) a decision of the Secretary denying a petition to rescind such a certification,

may at any time prior to the sixtieth day after such decision is published in the Federal Register file a petition challenging such decision with the United States court of appeals for the circuit wherein such person resides or such person has a principal place of business for judicial review of such decision. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary's decision shall be set aside if found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(4) Nothing in this Act shall apply to working conditions covered by the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).".

SEC. 303. APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES.

Paragraph (6) of section 4(b) (29 U.S.C. 653(b)(6)) (as so redesignated by section 302(1)) is amended to read as follows:

"(6) Notwithstanding paragraph (1), this Act shall apply with respect to employment performed in the Federal nuclear facilities under the control or jurisdiction of the Department of Energy.".

SEC. 304. EXTENSION OF EMPLOYER DUTIES TO ALL EMPLOYEES WORKING AT A PLACE OF EMPLOYMENT.

Paragraph (1) of section 5(a) (29 U.S.C. 654(a)(1)) is amended to read as follows:

"(1) shall furnish employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees of the employer or to other employees at the place of employment.".

TITLE IV—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 401. TIME FRAMES FOR SETTING STANDARDS.

(a) RECOMMENDATIONS AND PETITIONS FOR STANDARDS.—Paragraph (2) of section 6(b) (29 U.S.C. 655(b)(2)) is amended to read as follows:

"(2)(A) If the Secretary receives—

"(i) a recommendation of an advisory committee, the Secretary of Health and Human Services, or the Administrator of the Environmental Protection Agency; or

"(ii) a petition from an interested person which sets forth with reasonable particularity the facts which the person claims establish that an occupational safety or health standard should be promulgated, modified or revoked;

the Secretary shall, within 90 days of the receipt of the recommendation or petition, publish in the Federal Register a response stating whether the Secretary intends to publish a proposed rule promulgating, modifying or revoking such standard.

"(B) If the Secretary's response states that the Secretary does not intend to publish a proposed rule, the Secretary shall set forth the reasons for that decision. In all other cases, the Secretary shall, within 12 months of the decision, publish in the Federal Register a proposed rule promulgating, modifying, or revoking the standard cited in the petition or recommendation.".

(b) PROCEDURE FOR COMMENT AND HEARING.—Paragraph (3) of section 6(b) (29 U.S.C. 655(b)(3)) is amended—

(1) by redesignating such paragraph as subparagraph (B);

(2) by striking out "under paragraph (2)"; and

(3) by inserting immediately before subparagraph (B) (as so redesignated) the following new subparagraph:

"(3)(A) Where information developed by the Secretary or submitted to the Secretary indicates that a rule should be proposed promulgating, modifying, or revoking an occupational safety or health standard, the Secretary shall publish such a proposed rule in the Federal Register and shall afford interested persons a period of at least 30 days after publication to submit written data or comments.".

(c) TIME FRAME FOR ISSUING RULES.—Section 6(b)(4) (29 U.S.C. 655(b)(4)) is amended by striking out "Within" and all that follows through "paragraph (3)" and inserting in lieu thereof "Within 18 months of publication of a proposed rule under paragraph (2)(B)".

(d) REVIEW OF SECRETARY'S FAILURE OR REFUSAL TO ISSUE RULES.—Section 6 (29 U.S.C. 655) is amended by adding at the end thereof the following new subsection:

"(h)(1) Any person who may be adversely affected by a determination by the Secretary under subsection (b)(2) not to propose a rule promulgating, modifying, or revoking a standard may at any time prior to the sixtieth day after such determination is published in the Federal Register file a petition seeking review of such determination with the United States court of appeals for the circuit wherein such person resides or such person has a principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary's determination shall be set aside if found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) Any person who may be adversely affected by a failure of the Secretary to take any action required by this section within

the time period prescribed therefor by this section may at any time after such period of time has elapsed file a petition for review stating that such action has been unlawfully withheld or unreasonably delayed. Such petition may be filed with the United States court of appeals for the circuit wherein such person resides or such person has a principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The reviewing court shall compel the Secretary to take any action that is found to have been unlawfully withheld or unreasonably delayed. The Secretary's desire to confer with, or to receive approval from any other Federal agency or Federal executive official, shall not justify the withholding or delaying of action by the Secretary, except where such consultation or solicitation of approval is required by statute and has been pursued in a timely fashion.".

(e) JUDICIAL REVIEW.—Section 6(f) (29 U.S.C. 655(f)) is amended—

(1) by inserting after the first sentence the following new sentence: "However, no contention that the standard is infeasible may be entertained in such petition unless the contention and evidence to support the contention were presented to the Secretary in the rulemaking proceeding wherein the challenged standard was promulgated."; and

(2) by adding at the end thereof the following new sentence: "The procedures under this subsection shall be the exclusive means of challenging the validity of any occupational safety or health standard and the validity of any such standard may not be raised in an enforcement action under section 10 or 11.".

SEC. 402. BASIS FOR STANDARDS.

Paragraph (8) of section 3 (29 U.S.C. 652(8)) is amended to read as follows:

"(8) The term 'occupational safety and health standard' means a standard which addresses a significant risk to the safety or health of employees by requiring conditions, or the adoption or use of one or more practices, means, methods, operations, or processes that most adequately assure, to the extent feasible, safe and healthful employment and places of employment.".

SEC. 403. RECORDING OF WORK RELATED ADVERSE MEDICAL CONDITIONS.

Section 6(b)(7) (29 U.S.C. 655(b)(7)) is amended by inserting after the third sentence the following new sentence: "The standard shall also prescribe requirements for recording or reporting work-related adverse medical conditions determined as a result of medical examinations or tests conducted under the standard.".

SEC. 404. PUBLIC DISCLOSURE OF ALL COMMUNICATIONS ON STANDARDS.

Section 6(b) (29 U.S.C. 655(b)) is amended by adding at the end thereof the following new paragraph:

"(9) The Secretary shall place all written comments and communications and a summary of all verbal communications with parties outside the Department of Labor (including communications with executive branch officials but not including communications with the President) regarding the promulgation, modification, or revocation of a standard under this section in the public record not later than 10 working days after the receipt of such communications.".

SEC. 405. REVISION OF PERMISSIBLE EXPOSURE LIMITS.

Section 6 (29 U.S.C. 655) (as amended by section 401(d)) is further amended by adding at the end thereof the following new subsection:

"(i) In addition to other health and safety standards promulgated under subsection (b), the Secretary shall, in cooperation with the Secretary of Health and Human Services, modify and establish exposure limits for toxic materials and harmful physical agents on a regular basis in the following manner and in accordance with the requirements of subsection (b)(5):

"(1) The Secretary of Health and Human Services, acting through the National Institute for Occupational Safety and Health, shall regularly evaluate available scientific evidence, data, and information to determine if exposure limits for toxic materials and harmful physical agents promulgated under subsections (a) and (b) should be modified or if exposure limits for other toxic materials and harmful physical agents should be established to protect exposed employees from material impairment of health or functional capacity. Such evaluation shall include a review of the scientific literature, standards of private and professional organizations, national consensus standards, standards adopted by other countries, recommendations of State and Federal agencies, and consideration of whether such toxic materials and harmful physical agents pose a significant risk to employee health or safety.

"(2) At least once every 3 years the Secretary of Health and Human Services, acting through the National Institute for Occupational Safety and Health, shall, on the basis of the evaluation under paragraph (1), develop and transmit to the Secretary recommendations identifying toxic materials and harmful physical agents, if any, for which exposure limits should be modified or established to protect employees from material impairment of health or functional capacity. For each such material or agent, the recommendation shall include a suggested permissible exposure limit, the basis for the suggested exposure limit, and, where available, information on feasible control measures.

"(3) Within 30 days of the receipt of recommendations under paragraph (2), the Secretary shall publish the recommendations on exposure limits in the Federal Register and provide a period of 30 days for public comment. The Secretary shall evaluate the recommendations and public comments and, within 6 months of the receipt of the recommendations, shall publish a proposed rule to modify, maintain, or establish exposure limits for each toxic material and harmful physical agent for which the Secretary of Health and Human Services has recommended that such a limit should be modified or established. If a proposed exposure limit is not the same as the exposure limit suggested by the Secretary of Health and Human Services, the Secretary shall explain why the recommended limit is not being proposed.

"(4) Within 1 year of the publication of the proposed exposure limits under paragraph (3), the Secretary shall issue a final standard, which standard shall be subject to the requirements of subsection (b)(5). If a final exposure limit is not the same as the exposure limit recommended by the Secretary of Health and Human Services, the Secretary shall explain why the recommended exposure limit is not being adopted.

"(5) In addition to the periodic review of permissible exposure limits required by this subsection, the Secretary shall also establish or modify exposure limits for toxic materials and harmful physical agents whenever such action is warranted, pursuant to subsections (b)(5) and (g).".

SEC. 406. EXPOSURE MONITORING AND HEALTH SURVEILLANCE.

Section 6 (42 U.S.C. 655) (as amended by section 405) is further amended by adding at the end thereof the following new subsection:

"(j) Within 2 years of the effective date of the Comprehensive Occupational Safety and Health Reform Act, the Secretary shall promulgate final standards on exposure monitoring and health surveillance programs in the following manner and in accordance with subsection (b):

"(1) The standard on exposure monitoring shall include the following:

"(A) Requirements for a formal exposure assessment where workers may be exposed to toxic materials or harmful physical agents which are subject to standards issued under this section, including toxic materials or harmful physical agents.

"(B) Requirements for regular monitoring and measurement of toxic materials or harmful physical agents for which an exposure limit has been established by the Secretary or adopted by the employer if such monitoring and measurements will assist in protecting the health and safety of workers exposed to such toxic materials or harmful physical agents.

"(C) Requirements for a written compliance plan for reducing exposures where exposures are determined to exceed limits established by the Secretary or adopted by the employer.

"(D) Requirements for employees to be notified in writing of exposures to toxic materials or harmful physical agents above exposure limits established by the Secretary or adopted by the employer and the steps the employer is taking to reduce such exposures.

"(E) Requirements for maintenance and access to records of exposure to toxic materials or harmful physical agents.

"(2) The standard on health surveillance programs shall include the following:

"(A) Requirements for an evaluation of employee exposure assessments and exposure monitoring to identify which employees may be at risk of material impairment of health or functional capacity due to exposure to toxic materials or harmful physical agents.

"(B) Requirements for periodic medical examinations for employees identified to be at risk of material impairment of health or functional capacity due to exposure to toxic materials or harmful physical agents where such examinations are appropriate to identify or to prevent material impairment of health or functional capacity.

"(C) Requirements for the evaluation of the results of medical examinations to determine if an employee or a group of employees are exhibiting indications of present or potential material impairment of health or functional capacity due to exposure to toxic substances or harmful physical agents.

"(D) Requirements for the notification of employees of the results of medical examinations in a manner that is understood by the employees.

"(E) Provisions setting forth the qualifications for health care providers who may conduct required medical examinations. Where feasible, the Secretary in cooperation with the Secretary of Health and Human Services shall establish criteria and procedures for the certification of health care providers who conduct medical examinations.

"(F) Provisions to assure the confidentiality of personally identifiable medical information.

"(G) Provisions to prohibit discrimination against employees based on the results of medical examinations, and, as appropriate, provisions to provide protection of the

wages, benefits, and other terms and conditions of employment of employees who are transferred or removed from their jobs due to the result of medical examinations.

"(H) Records developed under this subsection shall be maintained and made available according to regulations published at section 1910.20 of title 29, Code of Federal Regulations.".

SEC. 407. STANDARD ON ERGONOMIC HAZARDS.

Section 6 (42 U.S.C. 655) (as amended by section 406) is further amended by adding at the end thereof the following new subsection:

"(k) Within 2 years of the effective date of the Comprehensive Occupational Safety and Health Reform Act, the Secretary shall issue a final standard on ergonomic hazards to protect employees from work-related musculoskeletal disorders in accordance with subsection (b)(5). The standard shall include the following:

"(1) Requirements for an ergonomics program where employees are exposed to ergonomic hazards which include provisions for hazard identification, control measures, medical management, training and education, and employee participation.

"(2) Requirements for an evaluation of job processes, work station design, rate of work, and work methods to identify ergonomic risk factors that cause or are likely to cause musculoskeletal disorders.

"(3) Requirements for control measures to reduce stressors and musculoskeletal disorders, including engineering controls, new equipment, or work organization controls.

"(4) Requirements for an effective medical management program for musculoskeletal disorders, including requirements for qualified health care providers, health surveillance, appropriate diagnosis, treatment, and followup.

"(5) Requirements for recording musculoskeletal disorders as an illness and reporting such illnesses to the Secretary.

"(6) Requirements for training and education of employees exposed to ergonomic hazards on ergonomic risk factors, control measures, and the employer's medical management program.

"(7) Requirements for employee participation in the establishment and implementation of the employer's ergonomic program through any safety and health committee established under section 28.".

SEC. 408. EMERGENCY TEMPORARY STANDARDS.

Section 6(c) (29 U.S.C. 655(c)) is amended—

(1) in paragraph (1) by striking out "if he determines" and inserting in lieu thereof "if the Secretary determines on the basis of the best available evidence"; and

(2) in paragraph (3), by striking out "six months" and inserting in lieu thereof "18 months".

SEC. 409. AIR CONTAMINANTS.

Notwithstanding the provisions of chapter 5 of title 5, United States Code, or the provisions of section 6 of the Occupational Safety and Health Act of 1970, the Secretary of Labor shall, not later than 60 days after the date of the enactment of the Comprehensive Occupational Safety and Health Reform Act, by rule promulgate as an occupational safety or health standard—

(1) the final rule on air contaminants published at 54 Federal Register 2332 (January 19, 1989); and

(2) the proposed rule on air contaminants for construction, agriculture, and maritime published at 57 Federal Register 26001 (June 12, 1992).

The rule mandated by this section shall take effect upon its issuance, however, the Secretary may provide in such rule for a reasonable delay in the compliance deadlines for specific provisions. Such rule after its issuance may be modified or revoked in the same manner as any occupational safety or health standard promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970.

TITLE V—ENFORCEMENT

SEC. 501. NO LOSS OF EMPLOYEE PAY FOR INSPECTIONS.

Section 8(e) (29 U.S.C. 657(e)) is amended by inserting after the first sentence the following new sentence: "Time spent by an employee on any such inspection shall be deemed to be hours worked and no employee shall suffer any loss of wages, benefits, and other terms and conditions of employment for having participated in the inspection.".

SEC. 502. TIME FRAME FOR RESPONSE TO COMPLAINTS.

The last sentence of section 8(f)(1) (29 U.S.C. 657(f)(1)) is amended by inserting before the period the following: "not later than 30 days after the receipt of the request for inspection".

SEC. 503. COMPLAINTS.

Section (8)(f)(1) (29 U.S.C. 657(f)(1)) is amended—

(1) in the first sentence by inserting "the Act or" after "a violation of";

(2) in the second sentence, by striking out "Any such notice" and all that follows through "and a copy shall be provided" and inserting in lieu thereof the following: "Any such notice shall set forth with reasonable particularity the grounds for the notice, and a copy of the notice if written or a summary of the notice if oral shall be provided"; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall make a special inspection in accordance with this section upon notification from any Federal or State agency that there are reasonable grounds to believe that a violation of this Act or a safety and health standard exists that threatens physical harm or that an imminent danger exists.".

SEC. 504. MANDATORY SPECIAL EMPHASIS.

Section 8 (29 U.S.C. 657) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall establish and carry out a special emphasis inspection program for conducting inspections of industries or operations where—

"(A) existing hazards; or

"(B) newly recognized or new hazards introduced into worksites;

warrant more intensive than normal inspections, as determined by the Secretary.

"(2) The Secretary shall annually designate the industries and operations for the special emphasis inspection program and identify the number of special emphasis inspections that the Secretary plans to conduct in each designated industry and operation and the number of enforcement personnel required for such inspections.

"(3) Inspections conducted under paragraph (1) shall be in addition to other programmed and complaint inspections conducted under this Act.

"(4) The Secretary shall annually submit a report to the Congress on the special emphasis inspection program as part of the Secretary's annual report required under section 26 which shall include information on inspections conducted pursuant to paragraph (2) which were carried out during the preceding year.".

SEC. 505. INVESTIGATIONS OF DEATHS AND SERIOUS INCIDENTS.

Section 8 (29 U.S.C. 657) (as amended by section 504) is further amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary shall investigate any work-related death or serious incident.

"(2) If a death or serious incident occurs in a place of employment covered by this Act, the employer shall notify the Secretary of the death or serious incident in accordance with section 24(a)(5) and shall take appropriate measures to prevent the destruction or alteration of any evidence that would assist in investigating the death or serious incident. The appropriate measures required by this paragraph do not prevent an employer from taking action on a worksite to prevent injury to employees or substantial damage to property. If an employer takes such action, the employer shall notify the Secretary of the action in a timely fashion.

"(3) As used in this subsection, the term 'serious incident' means an incident that results in the hospitalization of two or more employees.".

SEC. 506. ABATEMENT OF SERIOUS HAZARDS DURING EMPLOYER CONTESTS.

(a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is amended by inserting after the third sentence the following new sentence: "If the Secretary or an authorized representative of the Secretary believes that an alleged violation is serious and presents such a substantial risk to the safety or health of employees that the initiation of review proceedings should not suspend the running of the period for the correction of the violation, the citation shall so state.".

(b) CITATIONS AND ENFORCEMENT.—Section 10 (29 U.S.C. 659) is amended—

(1) in subsection (b), by striking out "(which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties)"; and

(2) by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraphs (2) and (3), the period permitted for the correction of a violation shall begin to run from the date of the receipt of the citation.

"(2) If the employer initiates timely review proceedings under this section in which the employer contests matters other than the proposed assessment of penalty or characterization of the violation and the proceedings are initiated by the employer in good faith and not solely for delay, the period permitted for the correction of a violation shall, except as provided in paragraph (3), not begin to run until the entry of a final order by the Commission.

"(3) If the citation states that the violation is serious and presents such a substantial risk to the safety or health of employees that the initiation of review proceedings shall not suspend the running of the period for correction of the violation and if, simultaneous with initiating timely review proceedings under the citation, the employer files a statement asserting that the period for correction of the violation should be suspended during such proceedings, the Commission shall expedite the consideration and decision of the employer's review proceeding. In its decision resolving that proceeding, the Commission may modify the citation's provision that the period for the correction of the violation shall run from the date of the receipt of the citation, if the Commission determines, based on a consideration of the na-

ture of the violation, that the nature and degree of risk posed to employees by the employer's refusal to undertake prompt correction of the violation, and the extent of any irreparable injury the employer would incur by undertaking correction of the violation during the pendency of review proceedings, that such provision is unreasonable in the circumstances.".

(c) PENALTIES.—Section 17(d) (29 U.S.C. 666(d)) is amended by striking out "(which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties)".

(d) EMPLOYER CONTEST.—Section 10(c) (29 U.S.C. 659(c)) is amended by inserting after the first sentence the following new sentence: "The pendency of a contest before the Commission shall not bar the Secretary from inspecting a place of employment or from issuing a citation under section 9.".

(e) STATUTE OF LIMITATION.—Section 9(c) (29 U.S.C. 658(c)) is amended by adding at the end thereof the following new sentence: "The 6-month time limit shall not apply to a notification of penalty.".

(f) VERIFICATION OF ABATEMENT.—Section 10 (as amended by subsection (b)) is further amended by adding at the end thereof the following new subsection:

"(e)(1) Each employer to whom a citation for a serious, willful or repeated violation has been issued under section 9 shall verify the abatement of such violation in writing to the Secretary not later than 30 days after the period for the correction of the violation has expired. Such verification shall include appropriate documentary evidence. Each such employer shall prominently post, within 10 days after the verification of abatement, at or near each place that a violation referred to in the citation occurred, a notice that the violation has been abated, and shall make available to employees and employee representatives for inspection a copy of the verification of abatement provided to the Secretary pursuant to this subsection.

"(2) Not later than 1 year after the effective date of this subsection, the Secretary shall promulgate final regulations regarding the requirements of this subsection.".

SEC. 507. RIGHT TO CONTEST CITATIONS AND PENALTIES.

The first sentence of section 10(c) (29 U.S.C. 659(c)) is amended—

(1) by inserting after "the issuance of a citation" the following: "or a modification of a citation issued"; and

(2) by inserting after "files a notice with the Secretary" the following: "alleging that the citation fails properly to designate the violation as serious, willful, or repeated, or that the proposed penalty is not adequate, or".

SEC. 508. RIGHT OF EMPLOYEE REPRESENTATIVES TO PARTICIPATE IN OTHER PROCEEDINGS.

The last sentence of section 10(c) (29 U.S.C. 659(c)) is amended by striking out "hearings" and inserting in lieu thereof "proceedings".

SEC. 509. OBJECTIONS TO MODIFICATION OF CITATIONS.

Section 10 (29 U.S.C. 659) (as amended by section 506(e)) is amended by adding at the end thereof the following new subsection:

"(f)(1) If the Secretary intends to withdraw or to modify a citation as a result of any agreement with the cited employer, the rules of procedure prescribed by the Commission shall provide for prompt notice to affected employees or representatives of affected employees, and which notice shall include the terms of the proposed agreement.

"(2) Not later than 15 working days after the receipt of the notice provided in accordance with paragraph (1), any employee or representative of employees, regardless of whether such employee or representative has previously elected to participate in the proceedings, shall have the right to file a notice with the Secretary alleging that the proposed agreement fails to effectuate the purposes of this Act and stating the respects in which it fails to do so.

"(3) Upon receipt of a notice filed under paragraph (2), the Secretary shall consider the matter, and if the Secretary determines to proceed with the proposed agreement, the Secretary shall respond with particularity to the statements presented in that notice.

"(4) Not later than 15 working days following the Secretary's response provided pursuant to paragraph (3), the employee or representative of employees shall, upon a request to the Commission, have the right to a hearing as to whether adoption of the proposed agreement would effectuate the purposes of this Act, including a determination as to whether the proposed agreement would adequately abate the alleged violations.

"(5) If the Commission determines that a proposed agreement fails to effectuate the purposes of this Act, the proposed agreement shall not be entered as an order of the Commission and the citation shall not be withdrawn or modified in accordance with the proposed agreement.".

SEC. 510. IMMINENT DANGER INSPECTIONS.

(a) SPECIAL CONDITIONS AND PRACTICES.—Section 13 (29 U.S.C. 662) is amended—

(1) by striking out subsection (c);

(2) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(3) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a)(1) If the Secretary determines, on the basis of an inspection or investigation under this section, that a condition or practice in a place of employment is such that an imminent danger to safety or health exists that could reasonably be expected to cause death or serious physical harm or permanent impairment of the health or functional capacity of an employee if not corrected immediately, the Secretary shall so inform the employer and affected employees and shall request that the condition or practice be corrected immediately or that employees be immediately removed from exposure to such danger.

"(2) If the employer refuses to comply with a request under paragraph (1), the Secretary shall immediately cause notice to be posted in the workplace identifying the equipment, process, or practice that is the source of the imminent danger. Such notice shall take the form of a tag or other device that will be seen by employees who might otherwise be exposed to the dangerous equipment, process, or practice. The notice shall be removed only by the Secretary.

"(3) The fact that notice under paragraph (2) has been posted shall be noted in any citation issued pursuant to section 9 with respect to the hazard involved.

"(4) No person shall discharge or in any manner discriminate against any employee because such employee has refused to perform a duty that would expose the employee to the condition or a practice that has been identified as the source of an imminent danger by a notice posted pursuant to paragraph (2). The right to refuse to perform such a duty shall be in addition to any other right to refuse to perform hazardous work that is afforded to employees by this Act, by standards or regulations issued pursuant to this Act, by contract, or by other applicable law."; and

(4) in the first sentence of subsection (b) (as so redesignated) to read as follows: "The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which pose an imminent danger as described in subsection (a).".

(b) PENALTIES.—Section 17 is amended—

(1) by redesignating subsections (h) through (l) as subsections (i) through (m), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) In the event that an employer does not immediately correct the hazard referenced in a notice posted under section 13(a)(2) or remove all employees from exposure thereto, the employer shall be assessed a civil penalty of not less than $10,000 and not more than $50,000 for each day during which an employee continues to be exposed to the hazard unless the Commission determines that the condition or practice is not of such a nature as to be covered by section 13(a).".

SEC. 511. CITATIONS AND PENALTIES FOR VIOLATIONS OF SECTIONS 27, 28 AND 31.

(a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is amended by inserting ", 27, 28, or 31" after "section 5".

(b) PENALTIES.—Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (a), by inserting ", 27, 28, or 31" after "section 5";

(2) in subsection (b), by inserting ", 27, 28, or 31" after "section 5"; and

(3) in subsection (c), by inserting ", 27, 28, or 31" after "section 5".

SEC. 512. OSHA CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 17 (29 U.S.C. 666) (as amended by section 510(b)) is further amended—

(1) in subsection (e)—

(A) by inserting after "employer" the following: "or any officer, management official, or supervisor having direction, management, control, or custody of any place of employment";

(B) by striking out "fine of not more than $10,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,";

(C) by striking out "six months" and inserting in lieu thereof "10 years";

(D) by striking out "fine of not more than $20,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,";

(E) by striking out "one year" and inserting in lieu thereof "20 years"; and

(F) by inserting "under this subsection or subsection (i)" after "first conviction of such person";

(2) in subsection (f), by striking out "fine of not more than $1,000 or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,";

(3) in subsection (g), by striking out "fine of not more than $10,000, or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,";

(4) by redesignating subsections (i) through (m) as subsections (j) through (n), respectively;

(5) by inserting after subsection (h) the following new subsection:

"(i) Any employer or any officer, management official, or supervisor having direction, management, control, or custody of any place of employment who willfully violates any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, and that violation causes serious bodily injury to any employee but does not cause death to any employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person under this subsection or subsection (e), punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or by both,"; and

(6) by adding at the end the following new subsection:

"(o) If a penalty or fine is imposed on a director, officer, or agent of an employer under subsection (e), (f), (g), or (i), such penalty or fine shall not be paid out of the assets of the employer on behalf of that individual.".

(b) DEFINITION.—Section 3 (29 U.S.C. 652) is amended by adding at the end thereof the following new subsection:

"(15) The term 'serious bodily injury' means bodily injury that involves—

"(A) a substantial risk of death;

"(B) protracted unconsciousness;

"(C) protracted and obvious physical disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

(c) JURISDICTION FOR PROSECUTION UNDER STATE AND LOCAL CRIMINAL LAWS.—Section 17 (29 U.S.C. 666) (as amended by subsection (a)) is further amended by adding at the end thereof the following new subsection:

"(p) Nothing in this Act shall preclude State and local law enforcement agencies from conducting criminal prosecutions in accordance with the laws of such State or locality.".

SEC. 513. COMMISSION MEMBER'S TERMS.

Section 12(b) (29 U.S.C. 661(b)) is amended by inserting after the first sentence the following new sentence: "A member of the Commission may serve after the expiration of the member's term until a successor has taken office.".

SEC. 514. INSPECTIONS.

Section 8(a) (29 U.S.C. 657(a)) is amended by adding after paragraph (2) the following new flush left margin sentence: "In carrying out the inspection authority under this section, the Secretary shall establish an effective system for targeting inspections of worksites, especially worksites with a high potential for death, serious injury, or exposure to toxic materials or harmful physical agents and shall establish priorities for such inspections to ensure that enforcement activities are concentrated on such worksites.".

SEC. 515. EMPLOYEE ACCOUNTABILITY.

Section 9 (29 U.S.C. 658) is amended by adding at the end thereof the following new subsection:

"(d) A citation issued under subsection (a) to an employer who violates the requirements of section 5, any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that—

"(1) employees of such employer have been provided with the proper training and equipment to prevent such a violation;

"(2) work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and have been effectively enforced when such a violation has been discovered;

"(3) the failure of employees to observe work rules led to the violation; and

"(4) reasonable steps have been taken by such employer to discover any such violation.".

TITLE VI—PROTECTION OF EMPLOYEES FROM DISCRIMINATION

SEC. 601. ANTIDISCRIMINATION PROVISIONS.

(a) EMPLOYEE ACTIONS.—Section 11(c)(1) (29 U.S.C. 660(c)(1)) is amended by inserting before the period at the end thereof the following: "including reporting any injury, illness or unsafe condition to the employer, agent of the employer, the safety and health committee, or employee safety and health representative".

(b) PROCEDURE.—Section 11(c) (29 U.S.C. 660(c)) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) No person shall discharge or in any manner discriminate against an employee for refusing to perform the employee's duties when the employee has a reasonable apprehension that performing such duties would result in serious injury to, or serious impairment of the health of, the employee or other employees. The circumstances causing the employee's apprehension of serious injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of a serious injury or serious impairment of health resulting from the circumstances. In order to qualify for protection, the employee, when practicable, must have sought from his employer, and have been unable to obtain, correction of the circumstances causing the refusal to perform the employee's duties.

"(3) Any employee who believes that he or she has been discharged, disciplined, or otherwise discriminated against by any person in violation of paragraph (1) or (2) may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary alleging that such discharge, discipline, or discrimination violates paragraph (1) or (2). Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(4)(A)(i) Not later than 60 days after the receipt of a complaint filed under paragraph (3), the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit. During the investigation, the Secretary shall notify the person named in the complaint of the charges made in the complaint, shall provide such person with an opportunity to meet with the inspector conducting the investigation, to submit a response to such charges, and to present witnesses to rebut such charges. The Secretary shall also consider the result of any collectively-bargained grievance proceeding which may have been held with respect to such charges. Upon completion of the investigation, the Secretary shall notify the complainant and the respondent to the complaint of the Secretary's findings. Where the Secretary has concluded that there is reasonable cause to believe that a violation has occurred, the Secretary's findings shall be accompanied by a preliminary order providing the relief prescribed by subparagraph (B).

"(ii) After the Secretary has made findings, either the respondent or the complainant may, within 30 days, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. If the Secretary does not issue findings with respect to a complaint within 90 days of the receipt of the complaint, the complainant may request a hearing on the record on the complaint.

"(iii) A hearing requested under clause (ii) shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person named in the complaint.

"(B) If, in response to a complaint filed under paragraph (3), the Secretary determines that a violation of paragraphs (1) or (2) has occurred, the Secretary shall order—

"(i) the person who committed such violation to correct the violation;

"(ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment; and

"(iii) compensatory damages.

If such an order is issued, the Secretary, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(5)(A) Any person adversely affected or aggrieved by an order issued after a hearing under paragraph (4)(A) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

"(B) Whenever a person has failed to comply with an order issued under paragraph (4)(A), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subparagraph, the district court shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory damages.

"(6) The legal burdens of proof set forth in section 1221(e) of title 5, United States Code, shall govern adjudication of protected activities under this subsection.".

SEC. 602. POSTING OF EMPLOYEE RIGHTS.

Section 8(c)(1) (29 U.S.C. 657(c)(1)) is amended by adding at the end thereof the following new sentence: "Such regulations shall include provisions requiring employers to post for employees the protections afforded under section 11(c).".

TITLE VII—OSHA TRAINING AND EDUCATION

SEC. 701. TECHNICAL ASSISTANCE TO EMPLOYERS AND EMPLOYEES.

Section 21 (29 U.S.C. 670) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall develop and disseminate, directly or by grants or contracts, model curricula, model programs and other information and materials to assist employers in complying with the requirements for safety and health programs and employee safety and health training and education under section 27, with the requirements for safety and health committees under section 28, with the requirements of section 5, including the requirements of standards issued under section 6, and other requirements of the Act.

"(e) The Secretary shall establish and implement a program to provide technical assistance and consultative services for employers and employees, either directly or through grants or contracts, concerning worksite safety and health and compliance with this Act. Such assistance and consultation shall be targeted at small employers, high hazard worksites, and high hazard industries.

"(f) The Secretary shall award grants for the establishment and functioning of regional or State safety resource councils or centers. Such councils or centers shall identify safety and health resources within the State or region that employers and employees can utilize—

"(1) to improve safety and health;

"(2) to assist with the development of industry-specific projects to promote safety and health; and

"(3) to assist employers and employees with the development of safety and health programs.

Such councils or centers shall be not-for-profit organizations, and shall include representatives from State agencies, employers and labor organizations.

"(g) The Secretary shall establish a program under which the Secretary may annually recognize employers with outstanding safety and health records by presenting such employers with a safety and health excellence award. The Secretary may annually recognize other organizations through the presentation of such awards in recognition of the outstanding efforts of such organization to promote occupational safety and health."

SEC. 702. OSHA ASSISTANCE FUND.

Section 7 (29 U.S.C. 656) is amended by adding at the end thereof the following new subsection:

"(d)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'OSHA Assistance Fund' (hereinafter in this subsection referred to as the 'Fund'). The Fund shall be used to offset the costs of implementing section 21 (including administrative and personnel expenses). Monies in the Fund shall be available without fiscal year limitation to the Secretary for such purpose.

"(2)(A) The Secretary is authorized to charge fees in accordance with this paragraph for technical assistance and consultative services provided under section 21. Such fees—

"(i) shall be imposed on a uniform basis on persons receiving such assistance or services under section 21;

"(ii) shall not exceed the cost of implementing section 21; and

"(iii) with respect to each person receiving such assistance or services, shall bear a reasonable relationship to the cost of providing such assistance or services to such person.

"(B) Fees received by the Secretary under this subsection shall be deposited in the Fund.

"(C) The Secretary shall report with respect to each fiscal year to the Congress on the operation of the Fund.

"(3) The Secretary of the Treasury shall invest the portion of the Fund not required to satisfy current expenditures from the Fund, as determined by the Secretary, in obligations of the United States or obligations guaranteed as to principal by the United States. Investment proceeds shall be deposited in the Fund.".

TITLE VIII—RECORDKEEPING AND REPORTING

SEC. 801. DATA COLLECTED BY SECRETARY.

Section 24(a) (29 U.S.C. 673) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively and margining such paragraphs accordingly; and

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

"(4)(A) For the purpose of setting safety and health standards, targeting inspections to individual establishments, evaluating standard setting and enforcement programs, and for other purposes, the Secretary shall collect such information as may be necessary and conduct analyses that identify—

"(i) industries, employers, establishments, processes, operations, and occupations that have a high rate of injury or illness;

"(ii) factors that cause or contribute to injuries and illnesses;

"(iii) workers' compensation and other costs associated with the injuries and illnesses; and

"(iv) employee exposures to toxic substances and harmful physical agents.

"(B) Data collected under this subsection shall be publicly available in a form suitable for further statistical analysis.

"(5) The Secretary shall issue regulations that require each employer covered by this Act to report to the Secretary each work-related death of an employee of the employer immediately upon knowledge of the employer and to report each serious incident that results in the hospitalization of two or more employees within 24 hours of the incident.".

SEC. 802. EMPLOYEE REPORTED ILLNESSES.

Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by striking out "deaths, injuries, and illnesses other than" and inserting in lieu thereof "deaths, injuries, illnesses, suspected work-related illnesses reported by an employee or an employee's physician unless the employer makes a reasonable determination that the illness is not work-related, and adverse medical conditions determined as a result of a medical examination or test conducted under an occupational safety or health standard. Records and reports shall not be required for".

SEC. 803. EMPLOYEE ACCESS.

Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by adding at the end the following new sentence: "The records and reports required under this section shall be made available to the Secretary, the Secretary of Health and Human Services, employees and employee representatives.".

TITLE IX—NIOSH

SEC. 901. HAZARD EVALUATION REPORTS.

Section 20(a)(6) (29 U.S.C. 669(a)(6)) is amended—

(1) in the second sentence, by inserting ", or whether any potentially hazardous condition or harmful physical agent found in the place of employment poses a risk to exposed employees" after "as used or found"; and

(2) by inserting after the second sentence the following new sentence: "If a determination is not made within 6 months of the request, the Secretary shall provide the employer and employees with an interim report on the known or suspected hazards, a recommendation for control, and an estimate of the time that a final determination will be made.".

SEC. 902. SAFETY RESEARCH.

Section 20(a) (29 U.S.C. 669(a)) is amended by adding at the end the following new paragraph:

"(8) The Secretary of Health and Human Services shall identify major factors contributing to occupational injuries and deaths through accident investigations and epidemiological research.".

SEC. 903. CONTRACTOR RIGHTS.

Section 20(b) (29 U.S.C. 669(b)) is amended in the first sentence by inserting after "Secretary of Health and Human Services" the following: "or the Secretary's designees or contractors.".

SEC. 904. NATIONAL SURVEILLANCE PROGRAM.

Section 20 (29 U.S.C. 669) is amended by adding at the end thereof the following new subsection:

"(f)(1) Not later than 2 years after the date of enactment of the Comprehensive Occupational Safety and Health Reform Act, the Secretary of Health and Human Services, acting through the National Institute for Occupational Safety and Health, shall (in cooperation with other agencies of the Department of Health and Human Services and the Secretary of Labor) establish a national surveillance program to identify cases of occupational illnesses, deaths, and serious injuries. In conducting the national surveillance program, the Secretary of Health and Human Services shall coordinate the activities of the Secretary with State health agencies and Federal and State workers' compensation agencies.

"(2)(A) The Secretary of Health and Human Services shall collect data each year on the number and characteristics of all occupational deaths, selected occupational illnesses, and selected occupational injuries.

"(B) In selecting occupational illnesses and injuries for the collection of data under subparagraph (A), the Secretary of Health and Human Services shall consider the known frequency of the disorder, the severity of the disorder, and the size of the population at risk.

"(3) The Secretary of Health and Human Services shall prepare reports and analysis of deaths, occupational illnesses, and injuries collected under the national surveillance program and transmit the information to the Secretary of Labor, State health agencies, employers, employees, and other interested parties.

"(4) The Secretary of Health and Human Services may issue regulations to require an employer, through a physician or other health professional employed by or under contract to the employer, to report information on occupational deaths, illnesses and injuries in order to carry out the provisions of this subsection.".

SEC. 905. ESTABLISHMENT OF NIOSH AS A SEPARATE AGENCY WITHIN PUBLIC HEALTH SERVICE.

The second sentence of section 22(b) (29 U.S.C. 671(b)) is amended by inserting after "The Institute shall be" the following: "established as a separate agency within the United States Public Health Service and be".

SEC. 906. NIOSH TRAINING.

Section 21(a) (29 U.S.C. 670(a)) is amended by inserting after "educational programs to provide an adequate supply of qualified personnel to carry out the purpose of this Act," the following: ", including education programs for employees and member of safety and health committees, as appropriate.".

TITLE X—STATE PLANS

SEC. 1001. STATE PLAN COMMITTEES AND PROGRAMS.

Section 18(c) (29 U.S.C. 667(c)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a comma; and

(3) by adding at the end the following new paragraph:

"(9) provides for the development of safety and health programs, safety and health committees and training programs that are at least as effective as those required under sections 27 and 28, and".

SEC. 1002. ACCESS TO INFORMATION; EMPLOYEE RIGHTS.

Section 18(c) (29 U.S.C. 667(c)) (as amended by section 1001) is further amended by adding at the end thereof the following new paragraph:

"(10) provides for reporting requirements, protection of employee rights, and access to information that are at least as effective as those required under this Act or other Federal laws which govern access to information related to this Act.".

SEC. 1003. APPLICATION OF FEDERAL STANDARDS.

Section 18 (29 U.S.C. 667) is amended by adding at the end thereof the following new subsection:

"(i) In the event a State, within 6 months after the promulgation of a safety and health standard by the Secretary under section 6, fails to adopt or promulgate a standard which is at least as effective as the Secretary's standard, the State shall enforce the Secretary's standard until a State standard which is at least as effective as such standard is in effect.".

SEC. 1004. COMPLAINTS AGAINST A STATE PLAN.

Section 18 (29 U.S.C. 667) (as amended by section 1003) is further amended—

(1) in the third sentence of subsection (e), by inserting after "preceding sentence" the following: "except as provided in subsections (f) and (j)"; and

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

"(j)(1) If the Secretary receives a written complaint from an employer, employee, or employee representative that a State is deficient in its compliance with a provision of its State plan and the Secretary determines that there are reasonable grounds to believe that such deficiency exists, the Secretary shall promptly investigate any such complaint, except that complaints which allege a deficiency in an enforcement action by a State shall be investigated within 30 days of the receipt of the complaint.

"(2) The Secretary shall, not later than 30 days after the completion of any investigation, transmit the findings in writing to the State and to the complainant, which findings shall include recommendations for the correction of any deficiency which is identified. If the Secretary determines there are no reasonable grounds to believe that a deficiency exists, the Secretary shall notify the complainant in writing of such determination.

"(3) Not later than 30 days after the receipt of findings issued under paragraph (2), the State shall respond to the Secretary in writing, describing what action the State has taken in response to the Secretary's findings and recommendations.

"(4) If after receipt of the response of the State, the Secretary believes a serious violation of the Act exists for which the State has failed to issue a citation, the Secretary with reasonable promptness shall issue a citation. Section 9(e) shall not apply with respect to a citation issued under this paragraph.".

SEC. 1005. ACTION AGAINST A STATE PLAN.

Section 18(f) (29 U.S.C 667(f)) is amended—

(1) by designating the first sentence as paragraph (1);

(2) by redesignating the second sentence as paragraph (3);

(3) by margining such paragraphs accordingly; and

(4) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2)(A) If the Secretary determines at any time that there are reasonable grounds for concluding that there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), the Secretary shall give notice to the State of the deficiencies which, in the Secretary's view, warrant a withdrawal of approval, and shall allow 6 months for the correction of the deficiencies.

"(B) If after 6 months the Secretary determines that the State has not corrected the deficiencies and that grounds for withdrawing approval of the State plan still exist, the Secretary shall institute proceedings pursuant to paragraph (3) for the withdrawal of approval of the plan, unless the Secretary determines in writing that exceptional circumstances exist that justify a decision not to institute such proceedings.

"(C) During the pendency of proceedings pursuant to paragraph (3), the Secretary shall exercise jurisdiction, concurrent with the State, over the safety and health issues that are subject to the State plan.".

SEC. 1006. STATE PLAN CONFORMING AMENDMENTS.

Section 18 (29 U.S.C. 667) (as amended by section 1004(2)) is further amended by adding at the end thereof the following new subsection:

"(k)(1) Except as provided in paragraph (2), each State which is exercising authority to operate a State safety and health plan under this section shall within 1 year of the effective date of the Comprehensive Occupational Safety and Health Reform Act modify the plan to conform with the requirements of this Act.

"(2) In the case of a State which the Secretary identifies as—

"(A) requiring State legislation (other than legislation appropriating funds) to modify the State safety and health plan to conform with the requirements of this Act; and

"(B) having a legislature which is not scheduled to meet within 1 year of the effective date of the Comprehensive Occupational Safety and Health Reform Act in legislative session in which such legislation may be considered;

the State shall modify the plan to conform with the requirements of this Act within 1 year or by the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins after the effective date of the Comprehensive Occupational Safety and Health Reform Act, whichever is later. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate session of the State legislature.".

SEC. 1007. EFFECT ON STATE LAW.

Section 18 (29 U.S.C. 667) (as amended by section 1006) is further amended by adding at the end thereof the following new subsection:

"(l) Nothing in this section shall be construed to prevent any State from enacting or enforcing State public safety or health laws which are not limited to providing safe and healthful employment or places of employment, including laws that regulate employees or places of employment as a means of protecting the health and safety of nonemployee members of the public as well as of employees, such as those that license individuals to perform particular types of work.".

TITLE XI—VICTIMS' RIGHTS

SEC. 1101. VICTIMS' RIGHTS

Section 29 is amended to read as follows:

"SEC. 29. VICTIMS' RIGHTS

"(a) DEFINITION.—For purposes of this section, the term 'victim' means—

"(1) an employee who has sustained a work-related injury or illness which is the subject of an inspection or investigation conducted under section 8, or

"(2) a family member of an employee, if—

"(A) the employee is killed as a result of a work-related injury or illness which is the subject of an inspection or investigation conducted under section 8; or

"(B) the employee sustains a work-related injury which is the subject of an inspection or investigation conducted under section 8, and the employee cannot reasonably exercise his or her rights under this section.

"(b) RIGHTS.—On request, a victim shall be afforded the right, with respect to a work-related injury, illness, or death involving the employee, to—

"(1) meet with the Secretary, or an authorized representative of the Secretary, regarding the inspection or investigation conducted under section 8 concerning the employee's injury, illness, or death before the Secretary's decision to issue a citation or take no action; and

"(2) receive, at no cost, a copy of any citation or report, issued as a result of such inspection or investigation on the date the citation or report is issued, be informed of any notice of contest filed under section 10, and be provided an explanation of the rights of employee and employee representatives to participate in proceedings conducted under section 10.

"(c) MODIFICATION OF CITATION.—Before entering into an agreement to withdraw or modify a citation issued as a result of an inspection or investigation of a death or serious incident under section 8, the Secretary, on request, shall provide an opportunity to the victim to appear and make a statement before the parties conducting settlement negotiations.

"(d) NOTIFICATION AND REVIEW.—The Secretary shall establish procedures—

"(1) to inform victims of their rights under this section; and

"(2) for the informal review of any claim of a denial of such rights.".

TITLE XII—CONSTRUCTION SAFETY

SEC 1201. SHORT TITLE.

This title may be cited as the "Construction Safety, Health, and Education Improvement Act of 1993".

SEC. 1202. DEFINITIONS.

Section 3 (29 U.S.C. 652) (as amended by section 512(b)) is further amended by adding at the end thereof the following new paragraph:

"(16) For purposes of section 7(c), subsections (j) through (l) of section 8, and sections 30 and 31:

"(A) The term 'construction employer' means an employer as defined in paragraph (5) (including an employer who has no employees) who is engaged primarily in the building and construction industry or who performs construction work under a contract with a construction owner, except that a utility providing or receiving mutual assistance in the case of a natural or man-made disaster shall not be considered a construction employer.

"(B) The term 'construction owner' means a person who owns, leases or has effective control over property with or without improvements, a structure, or other improvement on real property on which construction work is being, or will be, performed.

"(C) The term 'construction project' means all construction work by one or more construction employers which is performed for a construction owner and which is described in work orders, permits, requisitions, agreements, and other project documents.

"(D) The term 'construction work' means work for construction, alteration, demolition, or repair, or any combination thereof, including painting and decorating, but does not include work performed under a contract between a construction employer and a homeowner for work on the homeowner's own residence, or routine maintenance and upkeep performed at least monthly, and such term shall include work performed under a contract between a construction employer and an agency of the United States or any State or political subdivision of a State.

"(E) The term 'construction worksite' means a site within a construction project where construction work is performed by one or more construction employers.

"(F) The term 'competent person' means a representative of a construction employer who satisfies the requirements of section 27(b)(8).".

SEC. 1203. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking out sections 30, 31 and 34;

(2) by redesignating sections 32 through 33 as section 34 and 35, respectively; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration an Office of Construction Safety, Health, and Education (hereinafter in this section referred to as the 'Office') to ensure safe and healthful working conditions in the performance of construction work.

"(b) DUTIES.—The Secretary shall—

"(1) identify construction employers that have high fatality rates or high lost workday injury or illness rates or who have demonstrated a pattern of noncompliance with safety and health standards, rules, and regulations;

"(2) develop a system for notification of employers identified under paragraph (1);

"(3) establish, after consultation with the Advisory Committee on Construction Safety and Health, training courses and curriculum for the training of inspectors and other persons with duties related to construction safety and health who are employed by the Occupational Safety and Health Administration;

"(4) establish model compliance programs for construction safety and health standards and assist employers, employees, and organizations representing employers and employees in establishing training programs appropriate to such standards; and

"(5) establish a toll-free line on which reports, complaints, and notifications required under this Act may be made.

"(c) PERSONNEL.—

"(1) DEPUTY ASSISTANT SECRETARY FOR CONSTRUCTION.—The Office shall be headed by a Deputy Assistant Secretary of Labor for Construction, appointed by the Secretary. The Deputy Assistant Secretary shall coordinate the activities of the Office and the Advisory Committee on Construction Safety and Health with the activities of other offices and directorates within the Occupational Safety and Health Administration to the extent that the activities of those other offices and directorates relate to safety, health, and education in the construction industry.

"(2) QUALIFICATIONS OF INSPECTORS.—The Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall determine the necessary qualifications and training requirements for individuals employed by the Occupational Safety and Health Administration whose responsibilities include the inspection of construction worksites. Such qualifications and requirements shall, at a minimum, include—

"(A) a requirement that the inspector, after receiving appropriate training, have a full understanding of this Act and the Secretary's standards and regulations applicable to construction work; and

"(B) in the case of a construction safety inspector, at least 5 years of experience working in the construction industry.".

SEC. 1204. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 1203) is further amended by adding after section 30 the following new section:

"SEC. 31. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

"(a) PROJECT CONSTRUCTOR.—The Secretary shall, by regulation, require each construction project to have an individual or entity (hereinafter referred to as the 'project constructor') that is responsible for the establishment of the safety and health plan for such project and for ensuring that the project safety coordinator exercises the duties set forth in this Act. Such regulations shall require that—

"(1) if only one general or prime contractor exists on a construction project, such contractor shall be the project constructor, unless such contractor designates another entity with its consent to be the project constructor; and

"(2) if a construction project has more than one general or prime contractor, the construction owner shall be the project constructor unless such construction owner designates another entity with its consent to be the project constructor.

"(b) CONSTRUCTION SAFETY AND HEALTH PLAN.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require that the project constructor for a construction project develop and implement a written construction safety and health plan for the construction project (hereinafter in this section referred to as the 'plan') to protect employees against hazards which may occur at such project.

"(2) REQUIREMENTS.—The regulations under paragraph (1) shall, at a minimum, require that the plan shall include a hazard analysis and construction process protocol which shall apply to each worksite of the project. The analysis and protocol shall include a specific reference to critical conditions in the construction process which may cause hazards to exist, identify the methods to be used at such worksite to ensure the structural stability of all buildings, structures, and excavations, and list all inspections and tests required at such worksite to protect the safety and health of employees.

"(3) AVAILABILITY.—Copies of the plan shall be made available to each construction employer prior to commencement of construction work by that employer.

"(c) PROJECT SAFETY COORDINATOR.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require that for every construction project, the project constructor shall designate a project safety coordinator appointed by and acting on behalf of the project constructor. Such regulations shall, at a minimum, require the following:

"(A) The project safety coordinator shall, on behalf of the project constructor—

"(i) ensure the implementation of the plan;

"(ii) ensure that each construction employer on the project has a safety and health program which complies with the plan and the requirements of subsection (d);

"(iii) conduct regular inspections of the worksite to monitor compliance by employers with the plan and with their safety and health programs;

"(iv) notify affected construction employers of any hazardous conditions discovered at a construction worksite or of noncompliance by an employer with the project safety and health plan, or the employer's own safety and health plan; and

"(v) if the hazard or noncompliance is not corrected, notify the construction owner and the project constructor.

"(B) The project safety coordinator shall issue written approval before an employer may engage in an operation of a type determined by the Secretary to pose a substantial risk of death or serious bodily injury.

"(C) The project safety coordinator shall—

"(i) upon request of any construction employer, employee, or employee representative, conduct an inspection at a construction worksite to determine if an imminent danger exists and shall stop work at, or remove affected employees from, an area in which such a danger exists;

"(ii) investigate each fatality, serious bodily injury, structural failure, fire, or explosion that occurs on the project; and

"(iii) notify the Secretary if a construction employer fails promptly to abate an imminent danger, and request the Secretary to conduct an immediate inspection of the worksite.

"(D) The project safety coordinator shall be on site as necessary and be promptly available at all times that work is being performed on the project.

"(2) QUALIFICATIONS.—The project safety coordinator shall be an individual who is certified by an organization or organizations approved by the Secretary as having fulfilled the requirements of a standardized training course and testing program developed or approved by the Secretary with the advice of the Advisory Committee on Construction Safety and Health. Until the Secretary develops such approved procedures, the project safety coordinator shall meet the requirements of a competent person under subsection (e).

"(d) CONSTRUCTION SAFETY AND HEALTH PROGRAMS.—The Secretary shall, by regulation, require every construction employer on a construction project to have a written safety and health program established in accordance with section 27 applicable to the employer's work on such project. The Secretary's regulations shall, in addition to the

requirements under section 27(b), at a minimum, require the following:

"(1) The program shall provide for safety and health meetings to review the safety and health program to be conducted with construction employees during working hours prior to the commencement of the employer's work on the project. Thereafter, safety and health meetings shall be held at least monthly to provide updated information to employees on the construction process and the hazards associated with those processes. A safety and health meeting shall be held with newly hired employees and with those employees assigned to construction work with which they are unfamiliar before such work commences.

"(2) The program shall contain procedures for the emergency evacuation of the employer's employees from a construction worksite.

"(3) The program shall contain procedures to ensure that a competent person is on the construction worksite at all times that work is being performed by such employer.

"(4) The program shall contain procedures to ensure that all construction employees of the employer shall receive or have received within the 12-month period immediately preceding their employment, general safety and health training in a manner prescribed by the Secretary. The Secretary shall prescribe a procedure or procedures by which an employer may verify that employees have received the required training.

"(5) The program shall indicate if the employer has received notification under section 30(b)(2).

"(e) COMPETENT PERSONS.—The Secretary shall, by regulation, require each construction employer to designate one or more competent persons, in accordance with section 27(b)(8), who shall be responsible for the administration of the safety and health program. Such regulations shall, at a minimum, require the following:

"(1) A competent person shall be on the construction worksite at all times that work is being performed by such employer.

"(2) A competent person shall engage in inspections of the site, materials, and equipment, as appropriate, and shall stop work of such employer at, or remove affected employees of the employer from, an area in which an imminent danger exists. The competent person shall notify forthwith the project constructor or project safety coordinator of the imminent danger and of the action taken to ensure the prompt abatement of such danger and to prevent its recurrence.

"(f) APPLICATION.—

"(1) IN GENERAL.—The Secretary, by regulation, may modify the requirements of subsections (a) through (e), or portions thereof, as they apply to certain types of construction work or operations where the Secretary determines that, in light of the nature of the risks faced by employees engaged in such work or operation, such a modification would not reduce the employees' safety and health protection. In making such modifications, the Secretary shall take into account the risk of death or serious injury or illness, and the frequency of fatalities and the lost work day injury rate attendant to such work or operations.

"(2) EMERGENCY WORK.—If it is necessary to perform construction work on a worksite immediately in order to prevent injury to persons, or substantial damage to property, and such work must be conducted before compliance with the requirements of the regulations under subsections (a) through (e) can be made, the Secretary shall be given notice as soon as practicable of such work. Compliance with such requirements shall then be made as soon as practicable thereafter.

SEC. 1205. INSPECTIONS, INVESTIGATIONS, REPORTING, AND RECORDKEEPING.

Section 8 (29 U.S.C. 657) (as amended by sections 504 and 505) is further amended by adding at the end thereof the following new subsections:

"(j)(1) The Secretary shall establish an effective targeting system for general schedule construction inspections. In establishing such system, the Secretary shall establish priorities to ensure that construction enforcement activities are concentrated on construction work and construction projects having a high potential for deaths, injuries or illnesses and, within such construction projects, on worksites or operations having a high potential for deaths, injuries or illnesses.

"(2) In establishing construction inspection priorities under paragraph (1), the Secretary shall give due weight to—

"(A) the record of compliance with this Act and its regulations by particular construction employers; and

"(B) the fatality rate and the lost workday injury rate attributable to particular construction owners and construction employers and particular types of construction projects and construction work.

"(3) The Secretary shall use reports and notices filed under this subsection and subsection (i) and other pertinent information to develop the system of prioritized inspections required under this subsection.

"(4) The inspection priority system required by paragraph (1) shall not have the effect of limiting the Secretary's authority to conduct inspections of any employer or worksite under other provisions of this Act.

"(5) The Secretary shall, by regulation, require that, before the commencement of (A) specific, highly hazardous construction work, or (B) work by employers identified under section 30(b)(1), the project constructor shall report to the Secretary information regarding the project to allow the Secretary, on the basis of the inspection priority system required by paragraph (1), to determine whether to conduct an inspection of such project or of a worksite or worksites on such project. Such regulations shall require, at a minimum, that the information reported include the location of the project or worksite, the names of the construction owner, project constructor, project safety coordinator, and construction employers working on the project, the type of work to be performed, and the anticipated dates of such construction activities.

"(k)(1) The Secretary shall, by regulation, require that the project constructor of a construction project promptly report to the Secretary any incident involving construction work that results in—

"(A) a fatality;

"(B) an injury or illness causing 2 or more hospitalizations; or

"(C) a structural failure or fire or explosion which caused or could have caused serious bodily injury to an employee.

"(2) The Secretary's regulations shall provide at a minimum that each report required under paragraph (1) shall contain the names, business addresses, and telephone numbers of the construction owner of the worksite, the project constructor and project safety coordinator, and the construction employer whose construction employee was killed or seriously injured.

"(3) The Secretary shall investigate any incident reported pursuant to paragraph (1).

"(l) The Secretary shall, by regulation, require project constructors to make and maintain accurate records concerning fatalities, serious bodily injuries, structural failures, fires, and explosions at construction projects.".

SEC. 1206. ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.

Section 7 (29 U.S.C. 656) is amended—

(1) by redesignating subsections (c) and (d) (as added by section 702) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c)(1) The Advisory Committee on Construction Safety and Health established by the Secretary pursuant to section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)), shall be composed of 15 members, as follows:

"(A) One member shall be designated by the Secretary of Health and Human Services.

"(B) Five members, appointed by the Secretary, shall be qualified by experience and affiliation with construction employer and employer associations to present the viewpoint of the employers involved and five members, appointed by the Secretary, shall be qualified by experience and affiliation with labor organizations in the building and construction industry to present the viewpoint of employees involved.

"(C) Two members, appointed by the Secretary, shall be representatives of State safety and health agencies.

"(D) Two members, appointed by the Secretary, shall be qualified by knowledge and experience to be able to make useful contribution to the work of the Advisory Committee.

"(2) The term of office of each member shall be 3 years. The terms of five members shall expire each year, provided that the terms of no more than two representatives of the same interest shall expire the same year. A member whose term has expired shall continue to serve until a successor is appointed unless such member resigns or becomes unable to service.

"(d)(1) In addition to the functions prescribed by section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)), the Advisory Committee on Construction Safety and Health shall also serve as an advisory committee to the Secretary and the Secretary of Health and Human Services on matters relating to the administration of the Act. The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Services in the formulation of construction safety and health standards and other regulations and with respect to policy matters arising in the administration of this Act as it affects the construction industry. In carrying out its functions, the Advisory Committee may—

"(A) with the consent of the Secretary, obtain special advisory and technical experts or consultants as may be necessary to carry out the functions of the Advisory Committee;

"(B) establish working groups to address matters coming before the Committee during times the Committee is not in session;

"(C) schedule no fewer than four meetings during each calendar year and require a transcript to be kept of the meetings and to be made available for public inspection; and

"(D) consider such matters as it may determine to be appropriate, in addition to those matters referred by the Secretary.

"(2) The Secretary shall respond in writing to any recommendations made by a majority of the members of the Advisory Committee within 60 days of the Advisory Committee's issuance of such recommendation.".

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SEC. 1207. STATE CONSTRUCTION SAFETY AND HEALTH PLANS.

Section 18 (29 U.S.C. 667) (as amended by sections 1003, 1004 and 1006) is further amended by adding at the end thereof the following new subsection:

"(l) Any State plan that covers construction safety and health shall contain requirements which, and the enforcement of which, are, and will be, at least as effective, in providing safe and healthful employment and places of employment in the construction industry as the requirements contained in subsection (c), and the requirements imposed by, and enforced under, this Act and section 107 of the Contract Work Hours Standards Act (40 U.S.C. 333), including—

"(1) requirements relating to the training and qualifications of State agency construction inspectors;

"(2) requirements relating to construction safety and health plans and programs; and

"(3) requirements relating to inspections, investigations, reporting, and recordkeeping.".

SEC. 1208. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 1204) is further amended by inserting after section 31 the following new section:

"SEC. 32. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

"There is established in the Occupational Safety and Health Administration a Construction Safety and Health Academy to conduct training of employees of the Occupational Safety and Health Administration who conduct inspections of construction worksites and such other persons as the Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall consider appropriate.

SEC. 1209. ENFORCEMENT.

(a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is amended by inserting ", 8, or 31" after "section 5".

(b) PROJECT CONSTRUCTORS.—Section 9 (29 U.S.C. 658) (as amended by section 514) is further amended by adding at the end the following:

"(f) For purposes of this section and sections 8, 10, 11, and 17 a project constructor shall be considered an employer.".

SEC. 1210. REPORTS TO CONGRESS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 1208) is further amended by adding after section 32 the following new section:

"SEC. 33. REPORTS TO CONGRESS.

"(a) IN GENERAL.—The Secretary, in consultation with the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to the Congress an annual report upon the same general subjects as are set forth in section 26 and as they relate to the construction industry, including the operation of the Office of Construction Safety, Health, and Education.

"(b) EFFECT OF EXISTING CONDITIONS IN CONSTRUCTION INDUSTRY.—Within 120 days following the conclusion of 3 years of operation of the Office of Construction Safety, Health, and Education, the Secretary, with the advice and assistance of the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to the Congress a report upon the subject whether the then existing conditions of occupational safety and health in the construction industry, the effectiveness of regulation and enforcement, and any other relevant information supports the continued existence of the Office within the Occupational Safety and Health Administration, or the enactment of legislation to establish in the Department of Labor a Construction Industry Safety and Health Administration to be headed by an Assistant Secretary of Labor for Construction Safety and Health, or the enactment of legislation making any other changes in the law.".

SEC. 1211. FEDERAL CONSTRUCTION CONTRACTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 1210) is further amended by adding after section 33 the following new section:

"SEC. 34. FEDERAL CONSTRUCTION CONTRACTS.

"Not later than 90 days after the date of the enactment of this section, the Secretary shall deliver to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate recommendations regarding legislative changes required to make the safety records (including records of compliance with Federal safety and health laws and regulations) of persons bidding for contracts subject to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) a criterion to be considered in the awarding of such contracts.".

SEC. 1212. RELATIONSHIP TO EXISTING LAW AND REGULATIONS.

(a) IN GENERAL.—Nothing contained in the amendments made by this title or the regulations issued to carry out the amendments shall limit the application of, or lessen, any of the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Contract Work Hours Standards Act (40 U.S.C. 327 et seq.), or the standards or regulations issued by the Secretary of Labor to carry out either such Act.

(b) PROJECT CONSTRUCTORS.—The presence and duties of a project constructor or a project safety coordinator on a project shall not in any way diminish the responsibilities of construction employers under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) for the safety and health of their employees.

SEC. 1213. TIMETABLE FOR REGULATIONS.

The Secretary of Labor shall publish in the Federal Register in proposed form, no later than 90 days after the effective date of this Act, the regulations that this title directs the Secretary to prescribe, and shall promulgate the final regulations no later than 180 days after the effective date of this title. The final rules and regulations shall become effective 60 days after the date on which they are promulgated.

TITLE XIII—ADMINISTRATION

SEC. 1301. ADMINISTRATION.

There is established in the Department of Labor an Occupational Safety and Health Administration to be headed by an Assistant Secretary of Labor for Occupational Safety and Health who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary of Labor shall, except as specifically provided otherwise, carry out the Secretary's functions under the Occupational Safety and Health Act of 1970 through the Occupational Safety and Health Administration.

TITLE XIV—EFFECTIVE DATE

SEC. 1401. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) and section 1213, this Act and the amendments made by this Act shall take effect upon the expiration of 90 days after the date of the enactment of this Act.

(b) EXCEPTIONS.—The amendments made by section 302 shall take effect 1 year after the date of enactment of this Act.

SUMMARY OF THE COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH REFORM ACT

A. EMPLOYER AND EMPLOYEE PARTICIPATION

1. *Safety and Health Programs.* The bill requires employers to establish and maintain safety and health programs to reduce or eliminate hazards and prevent injuries and illnesses to employees. Such programs must provide for, among other things, employee training and education. OSHA is authorized to modify the applicability of these requirements to classes of employers provided that protection of employees is not diminished.

2. *Joint Safety and Health Committees.* The bill requires employers of 11 or more employees to have safety and health committees made up of employee representatives and up to an equal number of employer representatives. In unionized settings, employee representatives are to be designated by the employees' bargaining representative; otherwise they are to be selected by the employees. The joint committees are authorized to review the employer's safety and health program, conduct inspections, and make advisory recommendations to the employer.

3. *Employee Participation in Enforcement Proceedings.* The bill allows affected employees to participate more actively in proceedings of the Occupational Safety and Health Review Commission, by authorizing employees (1) to challenge OSHA's characterization of a violation and the amount of the proposed penalty before the Commission, and (2) to obtain Commission review of any settlement agreement entered into between an employer and OSHA modifying or withdrawing a citation.

4. *Antidiscrimination Protections.* The bill clarifies that the Act prohibits employers from discharging or otherwise retaliating against an employee (1) because the employee has reported an unsafe condition or (2) because the employee, after seeking from the employer and being unable to obtain corrective action, has refused to perform duties that the employee reasonably believes would expose employees to a bona fide danger of injury or serious impairment of health.

The bill also provides for enforcement procedures for the handling of discrimination complaints, modeled on provisions of the Surface Transportation Act. The bill authorizes the Secretary of Labor to order reinstatement and assess back pay, compensatory damages and attorneys' fees if the Secretary finds that an employee has been discharged or discriminated against in violation of the Act. Decisions by the Secretary are subject to judicial review.

B. THE STANDARD SETTING PROCESS

1. *Petitions for Standards.* The bill requires OSHA to respond to petitions requesting promulgation, modification or revocation of health or safety standards within 90 days of receipt, and if the agency finds that the action petitioned for is warranted, to issue a proposed rule within 12 months of the petition and a final rule within 18 months thereafter. Affected persons may obtain judicial review of any decision by the agency to deny a petition, or any failure of the agency to act within the timeframes specified.

2. *Permissible Exposure Limits for Toxic Substances.* The bill requires the National Institute for Occupational Safety and Health (NIOSH) to submit to OSHA at least once every three years recommendations for revisions of permissible exposure limits for toxic

substances, and requires OSHA to respond to NIOSH recommendations by issuing a proposed rule within six months and a final rule within one year of receipt of such recommendations.

The bill also authorizes OSHA to issue an air contaminants standard consisting of (1) revised permissible exposure limits for 428 toxic substances which were adopted by OSHA in 1989 but invalidated by the U.S. Court of Appeals for the 11th Circuit in 1992, and (2) related permissible exposure limits covering workers in the construction, agriculture and maritime industries which were proposed by OSHA in 1992.

3. *Basis for Standards.* The bill amends the definition of an OSH "standard" to codify the current judicial interpretation of the Act that all standards must address a "significant" risk to workers' safety or health. The bill also provides that safety and health standards must reduce the risk to the extent feasbile.

4. *Specific Standards.* The bill requires OSHA to issue standards relating to exposure monitoring, medical surveillance, and ergonomic hazards specified time frames.

C. ENFORCEMENT

1. *Targeted Inspection Program.* The bill requires OSHA to establish a special emphasis inspection program to target high-risk industries and operations.

2. *Reports and Investigations.* The bill requires employers to report all work-related fatalities immediately upon knowledge of the employer and to report all incidents resulting in the hospitalization of two or more employees within 24 hours of the incident. OSHA is required to investigate all such incidents and fatalities.

3. *Imminent Danger.* Where OSHA determines that a condition or practice poses an imminent danger to employees, the bill authorizes OSHA to require the employer to take immediate corrective action or remove employees from exposure to the hazard. Employees refusing to perform work which would require them to be exposed to the hazard are protected against discrimination, and OSHA is authorized to fine an employer who fails to take corrective action from $10,000 to $50,000 per day.

4. *Abatement of Hazards.* The bill modifies requirements for abatement of hazards by providing that where OSHA has determined that a serious violation exists that will pose a substantial risk of harm to employees, the period for abatement will begin to run on the date of issuance of the citation, regardless of whether or not the employer appeals the citation. Appeals from such citations are entitled to expedited review.

Employers who have been cited for serious, willful or repeated violations are required (1) to submit to the agency appropriate documentary evidence verifying that corrective action has been taken, and (2) to post a notice of abatement in the workplace.

5. *Employee Accountability.* The bill codifies the "employee misconduct" defense to a citation issued against an employer, which requires that the citation be vacated if the employer shows that the violation occurred because of employee misconduct contravening a well-established, effectively enforced work rule.

6. *Criminal Penalties.* The bill increases the maximum criminal penalties available under the Act for willful violations which cause death, and authorizes criminal penalties for willful violations which cause serious bodily injury. The bill also clarifies that corporate officers, managers, and supervisors may be prosecuted for criminally culpable conduct.

D. EXPANSION OF COVERAGE

1. *Public Employees.* The bill extends the coverage of the Act to federal employees (including congressional employees) and to state and local government employees.

2. *Other Federal Agency Jurisdiction.* With regard to private sector employees in industries within the regulatory jurisdiction of other federal agencies (e.g., the transportation and commercial fishing industries), the bill gives OSHA general authority to regulate occupational safety and health, but allows OSHA to cede jurisdiction over regulation of particular safety and health hazards to another agency if OSHA determines that the other agency has and is enforcing a standard that is as effective as the applicable OSHA standard. The mining industry, separately regulated under the Mine Safety and Health Act (MSHA), is exempted. In addition, the bill provides that OSHA may not cede jurisdiction with regard to employees working in federal nuclear facilities under the jurisdiction of the Department of Energy.

3. *General Duty Clause.* The bill modifies the Act's "general duty" clause to clarify that a covered employer has a duty to protect not only his own employees, but also any other employees who may be at the worksite, from hazardous conditions within the employer's control.

E. TECHNICAL ASSISTANCE TO EMPLOYERS AND EMPLOYEES

The bill requires OSHA to develop model training curricula and programs for dissemination to employers, and to provide technical assistance and consultative services to employers and employees. OSHA is authorized to charge reasonable fees to persons receiving technical assistance and consultative services, to help defray the cost of such services and to allow OSHA to expand such services to meet the needs of employers and employees. The bill also authorizes OSHA to award grants for the establishment of state or regional safety and health resource councils and present safety and health excellence awards to employers with outstanding records.

F. DATA COLLECTION AND RESEARCH

The bill requires improved collection and analysis by OSHA of employer data regarding work-related injuries and illnesses, employee exposures to toxic substances, and workers' compensation and other costs associated with occupational injury and disease. The bill also requires NIOSH to establish a national surveillance program to identify and collect data on work-related injuries and illnesses, and designates NIOSH as a separate agency within the Public Health Service.

G. STATE PLANS AND STATE LAWS

1. *State Plans.* The bill requires state plans to include provisions regarding employer safety and health programs, joint safety and health committees, reporting by employers, nondiscrimination and access to information which are at least as effective as those provided by federal law. When OSHA issues a new federal standard, state plans are required either to adopt a comparable standard within six months, or to enforce the federal standard until a comparable state standard is adopted. In addition, the bill requires OSHA to investigate complaints against state plans, and modifies the procedures for withdrawal of approval of a state plan.

2. *State Laws.* The bill leaves states free to enact and enforce public safety and health laws, including laws that regulate employees or places of employment as a means of protecting public health or safety, such as state licensing laws.

H. VICTIMS' RIGHTS

The bill provides, to employees who have suffered work-related injuries or illnesses or to their family members, (1) the right to meet with OSHA regarding any related inspection or investigation before the agency makes a decision to issue a citation or take no action; (2) the right to a copy of any citation or report issued as a result of such inspection or investigation; (3) the right to notice of any challenge to the citation filed by the employer; and (4) the right to meet with the parties prior to any settlement modifying or withdrawing the citation.

I. CONSTRUCTION SAFETY

1. *Office of Construction Safety.* The bill formally establishes, within OSHA, an Office of Construction Safety, Health and Education.

2. *Constructin Safety and Health Plan.* The bill requires each general or prime contractor on a construction project to: establish a written safety and health plan for the project; designate a project safety coordinator to implement the plan, conduct safety and health inspections, and oversee safety and health activities at the worksite; provide pre-start notice to OSHA of any high-hazard work or work by employers with poor safety records being performed on the project; and report safety and health incidents to OSHA.

3. *Construction Safety and Health Program.* The bill requires each construction employer on a project to include in its written safety and health program provisions to ensure that all workers have received proper training. Each such employer must also designate a competent person to be on the jobsite at all times that work is being performed.

4. *Modification of Requirements.* The bill allows OSHA to modify the safety and health plan and program requirements for construction employers where such modifications would not reduce employees' protection.

5. *Other Provisions.* The bill also reconstitutes the Advisory Committee on Construction Safety and Health to provide consultative expertise to OSHA on construction issues; requires OSHA to establish model compliance and training programs; and requires OSHA to establish a Construction Safety and Health Training Academy as part of its Training Institute.

Mr. METZENBAUM. Mr. President, I am pleased to join Senator KENNEDY today as an original cosponsor of the Comprehensive Occupational Safety and Health Reform Act. This legislation is based on a very simple principle: That America's hardworking men and women should not have to put their lives on the line just to earn a living in this country.

Moreover, saving lives and preventing injuries in the workplace will make us more competitive. The staggering costs of workplace accidents and illnesses contribute significantly to our high health care and workers' compensation costs. This bill is critical to getting these costs under control.

Senator KENNEDY and I first introduced this legislation in 1991. After a series of very productive legislative hearings, the Labor and Human Resources Committee favorably reported the bill last year. The 102d Congress adjourned without further action.

This year, we expect to move the legislation through additional hearings and a second committee markup, and to bring the bill to the floor. Congressman BILL FORD has similar plans for this measure in the House of Representatives.

For those of my colleagues who have yet to consider this issue in detail, let me explain why we need OSHA reform and what this bill would accomplish.

We have made some progress in reducing workplace injury and illness rates since OSHA was enacted in 1970. But today's statistics are no less chilling than they were two decades ago.

Every year, some 10,000 workers are killed on the job—one worker every hour of every day. These aren't just numbers—they represent real people suffering real tragedies. Take, for example, the first 2 workweeks this year.

On Monday, January 4, Ira Melton was electrocuted at an Orlando, FL worksite when the crane he was working on came in contact with high-voltage electrical wires. In Fletcher, OK, Terry Johnson was cleaning the guide rollers on a conveyor belt when he became caught in the belt and was crushed to death. Ronald Williams and two coworkers were cleaning a boiler furnace grate in Portsmouth, VA when the steam boiler tube ruptured, burning and causing inhalation injuries to all three workers. Mr. Williams died of his injuries a week later.

On Tuesday, Janice Banks was buried alive by falling lumber when a stacker broke at a lumberyard in Pulaski, TN. On Wednesday, Fred Zenner was crushed underneath the tracks of a bulldozer at a worksite in Kerrville, TX. On Thursday, Kenneth and Harold Bouma were using flammable cleaning solvents to clean a storage tank in Orange City, IA when a spark triggered an explosion and fire that burned them to death. Two other workers were also injured. On Friday, Jason Davis was accidentally electrocuted at a drilling company in Decatur, TX.

The following Monday, in Ventura, CA, David Duncan was helping to hoist a 2,100-pound metal tool when the hoisting straps broke. The tool struck Mr. Duncan and killed him. On Wednesday, Duane Miller was loading sheetrock onto flatbed trucks in Tucker, GA. He was killed when he became pinned between an unattended forklift and a flatbed truck. On Thursday, in Garfield, NJ, Willie Davis was unloading wound paper rolls from an industrial paper winder, when he became caught in the nipping points of the paper winder and was crushed to death. On Friday, James Puffinberg was electrocuted while performing maintenance work at a public school in Stephens City, VA.

Mr. President, I could go on, and on, and on. And in addition to these fatalities, 1,700,000 more workers suffer disabling injuries each year. As many as 100,000 die from occupational diseases. And the lost workday rate—based on the average number of workdays lost each year due to the occupational injury and illness, per 100 employees—has increased significantly, from 47.9 days lost in 1972 to 84.0 days lost in 1990.

According to the National Safety Council, workplace accidents cost $63.3 billion in 1991 in lost wages and productivity, medical costs, and insurance administration. Occupational illnesses—which cause many times more worker deaths than safety accidents—cost even more. And no one can place a monetary value on the suffering of millions of American families affected by a workplace death, injury, or illness that need not have happened.

Who pays these costs? We all do. About half of the costs fall on victims and their families in the form of lost income and out-of-pocket payments for medical care. The remaining half of these costs are paid for by a variety of public and private sources, including private health insurance, other health insurance. employer-provided benefits [such as sick leave], workers compensation, and public programs such as medicare, social security-disability, and supplemental security income.

While we can never eliminate all of these injuries and illnesses, it is estimated that as much as 80 percent of them are preventable using existing technologies and practices. Clearly, though, much of corporate America lacks the will to prevent these injuries and illnesses, and OSHA is incapable of securing compliance. OSHA's annual budget is less than $300 million, a pittance compared to the $6 billion appropriated for the Environmental Protection Agency.

OSHA's current budget pays for about 1,200 Federal inspectors, who are supposed to cover 3.5 million workplaces. I find it very troubling that we have six times as many fish and game inspectors in this country as we do occupational safety and health inspectors. At current staffing levels, OSHA can inspect each workplace only once every 84 years.

We must renew our commitment to the promise of a safe and healthy workplace, a promise Congress made to American workers back in 1970 when the OSHA Act was signed into law. But we must also recognize that OSHA is unlikely to receive large funding increases in the near future. Moreover, even with additional funding, OSHA can never do the job alone.

Instead, we must look to employers and employees to play a large role in addressing safety and health hazards. The legislation we are introducing today will accomplish this end by requiring employers to create safety and health programs as well as joint safety and health committees.

There is virtual unanimity in the OSHA community—from businesses to workers, from Government officials to safety experts and medical personnel—that corporate safety and health programs help make workplaces safer and make good business sense as well. Such programs help reduce injuries, improve morale, and pay for themselves through increased productivity and reduced workers' compensation costs. In its voluntary safety and health program guidelines, OSHA notes a strong correlation between the application of sound management practices in the operation of safety and health programs and a low incidence of occupational injuries and illnesses.

Seven States—California, Washington, Oregon, Alaska, Minnesota, Hawaii, and most recently North Carolina—already require such programs for some or all employers. The OSHA reform bill we are introducing today would require employers to establish safety and health programs to reduce or eliminate hazards, to prevent injuries and illnesses to employees, and to provide employee training and education.

The safety and health community is also in agreement with regard to the importance of employee involvement in addressing workplace safety and health problems. Joint safety and health committees have proved to be an effective means of ensuring employee involvement. According to Ford Motor Co., the establishment of joint committees within Ford facilities has promoted a spirit of teamwork that improves working conditions for all employees. In a work atmosphere where there has traditionally been an adversarial working relationship, joint safety and health committees have helped reduce conflict by demonstrating that our objectives are the same—an accident-free work environment.

These committees have been successfully utilized in thousands of unionized workplaces, and are required by law in Oregon, Washington, North Carolina, and Tennessee, as well as in many of our competitor nations. The OSHA reform bill requires employers of 11 or more employees to establish safety and health committees made up of both employee and employer representatives. These committees would have the right to review the employer's safety and health program, conduct inspections, and make advisory recommendations to the employer.

Some of the lobbyists for corporate America say don't impose mandated safety programs or committees on us. Give us the flexibility to establish them voluntarily. Well, we heard plenty of testimony in 1991 and 1992 that safety programs and committees make good business sense, but the reality is that most businesses have yet to get that message. The majority of American businesses have not established comprehensive safety programs or committees, and there is no reason to

think they would in the future unless we enact this legislation.

In addition, the claim that the bill would impose a one-size-fits-all approach ignores the flexibility built into these provisions. Both the program and committee provisions are performance oriented, and give the Secretary of Labor a great deal of discretion in determining how they will be carried out. The legislation explicitly authorizes the Secretary to modify the program requirements where doing so will not reduce worker protection, and gives him broad authority to issue regulations on the functioning of committees and the application of the committee provisions where workers do not primarily report to or work at a fixed location, at worksites with fewer than 11 employees, and at multiemployer worksites.

The OSHA reform bill we are introducing today also addresses a number of major problems in OSHA coverage, standard setting and enforcement. First, when Congress enacted OSHA in 1970, it did not provide for coverage of public sector employees. Instead, States were invited to establish their own plans to cover them. But only half of the States have enacted their own such plans since then, leaving millions of public sector employees in the other States with no OSHA protection at all. The OSHA reform bill would extend coverage to these workers.

Second, OSHA's existing standard-setting process is woefully inadequate to keep up with the thousands of potentially hazardous new chemicals and other physical agents introduced into the American workplace annually. As of 1989, OSHA standards regulated only about 630 substances, fewer than 30 of which were regulated by comprehensive standards providing for such things as exposure monitoring and medical surveillance.

For example, in 1975 OSHA began formal consideration of a confined spaces standard to protect workers against exposure to toxic gases in closed-in, unventilated areas. OSHA finally issued the rule this past January, 18 years later. Thousands of deaths and injuries could have been prevented if the rule had been adopted in an expeditious fashion. The bill streamlines OSHA's standard-setting process, shortening it to roughly 30 months.

Third, OSHA needs stronger abatement authority. Under current law, where a hazard rises to the level of an imminent danger, OSHA cannot force an employer to abate the hazard unless it gets a temporary restraining order from a court. This legislation would let OSHA tag the hazardous operation and impose civil penalties if the tagged operation is run before the hazard is abated.

In addition, where a hazard does not rise to the level of an imminent danger, but nonetheless poses a substantial risk of harm, employers can delay abatement simply by contesting a citation issued by OSHA. That process can take months or years to complete. The bill would require employers to abate serious violations of the act when a citation is first issued if there is a substantial risk of harm, even if the employer appeals the citation. An employer could challenge the reasonableness of the immediate abatement requirement before the OSHA review commission as part of its appeal.

Fourth, OSHA's current criminal penalty provisions are virtually useless. There is no criminal penalty for a willful violation that seriously injures or permanently disables a worker. OSHA cannot seek prosecution unless a worker dies.

Thus, no matter how outrageous its conduct, no matter how many workers are injured, no matter how clear the employer's criminal intent is, an employer cannot be prosecuted if the victims are lucky enough just to be maimed or crippled. This legislation would permit prosecution of employers who cause serious bodily injury to one or more workers.

Moreover, under current law, if an employer willfully violates a health or safety standard and that violation causes the death of an employee, the maximum penalty that can be imposed is 6 months—a simple misdemeanor. In contrast, the maximum penalty under Federal law for maliciously harassing a wild burro is 1 year—a felony. The bill lengthens the maximum allowable sentences under OSHA's criminal provisions, in order to encourage OSHA and the Department of Justice to make more meaningful use of these provisions as a deterrent to violations.

In addition, under the Seventh Circuit Court of Appeals' 1991 decision in U.S. versus DOIG, only owners and corporate officers can be held liable under OSHA's criminal provisions. But in reality, it may be a lower level employee who acts with criminal culpability in intentionally exposing a worker to highly dangerous conditions that cause death or serious injury. Thus, the bill amends the act to permit the criminal prosecution of managers and supervisors. If these individuals willfully kill or seriously injure a worker, they should not be shielded from responsibility merely because they are not an owner or a corporate officer.

Together, these various provisions will undoubtedly help OSHA meet its enforcement responsibilities and make the best use of its funding.

In addition to strengthening OSHA's authority and requiring safety and health programs and committees, this year's legislation addresses two issues that have arisen since the bill was first introduced in the last Congress in 1991. First, the bill would permit OSHA to reissue its 1989 Air Contaminants Standard, which was struck down last year by the 11th Circuit Court of Appeals.

When Congress enacted the OSHA Act in 1970, it allowed OSHA to adopt National Consensus Standards on an expedited basis. Those consensus standards, adopted in the early 1970s, were based on data developed in the 1950s and 1960s.

By the late 1980's, these consensus standards were woefully out of date, and offered scant protection to workers. Thus, OSHA updated the standards in 1989, based on recommendations of the American Conference of Governmental Industrial Hygienists and the National Institute for Occupational Safety and Health. The final rule represented a broad consensus of government, industry and labor, adopting industry standards that most employers had complied with for years. The vast majority of the 428 individual permissible exposure limits were not even subject to debate in the rulemaking process.

Nevertheless, last summer, the 11th Circuit used a challenge to several of these standards to strike down all 428 permissible exposure limits, on the ground that OSHA had failed to show adequate justification for each individual limit. That ruling left American workers without adequate protection against hundreds of toxic substances found in our workplaces. Even worse, it could take decades for OSHA to meet the regulatory burden suggested by the 11th Circuit's decision.

To address this situation, this legislation permits the Department of Labor to place the air contaminants standard into effect as a final rule. Having based its air contaminants update on existing industry standards, OSHA should be permitted the same deference as it received in adopting the initial rule in the early 1970's.

Second, in June of last year, the Supreme Court struck down an Illinois law requiring the licensing of hazardous waste disposal workers in Gade versus National Solid Wastes Management Association. The Court held that the State law directly, substantially, and specifically regulated occupational safety and health and therefore was preempted by the Federal OSHA Act.

As a general matter, States may regulate worker safety and health only if they have a State plan approved by Federal OSHA. Otherwise, the act preempts State regulation of workplace health and safety.

The court's ruling in Gade, however, prohibits non-State plan States from enacting not just worker safety laws, but public safety and health laws which protect both workers and the general public. The court's decision will significantly limit States' ability to protect public health and safety where it is intertwined with workers' health and safety. The Gade ruling could invalidate a host of public health

and safety laws which protect the public from such hazards as fire, toxic waste, and asbestos.

To address this problem, the legislation permits States to enact laws which protect both workers and the general public. The act would continue to preempt State worker safety laws in the absence of an approved State plan.

In conclusion, Mr. President, let me say that I recognize that the Senate is a political body. But the safety and health of American workers should not be a political issue. We must not allow ourselves to become mired in partisan posturing while the casualties mount in the American workplace.

I want to work with my colleagues on both sides of the aisle, and with the business community, to enact a strong worker safety bill. Improving the OSHA Act will save lives and prevent injuries. But it will also reduce health care and workers' compensation costs, and improve U.S. competitiveness. I urge my colleagues on both sides of the aisle to cosponsor this legislation, and I look forward to moving it through the legislative process swiftly this year.

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. CAMPBELL, Mr. DECONCINI, Mr. BOREN, Mr. WELLSTONE, and Mr. DORGAN):

S. 576. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource of income in determining eligibility for assistance under any Federal or federally assisted program; to the Committee on Indian Affairs.

INDIVIDUAL INDIAN TRUST INCOME EXEMPTION ACT

• Mr. DASCHLE. Mr. President, today I am introducing legislation that will restore a measure of equity to the treatment of native Americans under Federal entitlement programs. This bill exempts up to $4,000 per year in income from tribal lands that are held in trust for individual Indians for the purpose of the calculation of benefits under Social Security and other federally assisted programs. I am introducing this bill on behalf of Senators INOUYE, MCCAIN, SIMON, CAMPBELL, DECONCINI, BOREN, WELLSTONE, DORGAN, and myself.

In Indian country, land owned jointly by a number of heirs is often leased to non-Indians by the Bureau of Indian Affairs on behalf of those tribal members. The lease payments are, in turn, allocated to the individual heirs based on their specific interest in the land.

In the majority of cases, income from leased tribal lands is not substantial. Nor is it regular in many cases. It is not uncommon for inherited trust lands to be owned by such a large number of heirs that the lease income from them is less than $50 per year. Also, the availability of leasees often changes from year to year, which leaves heirs without income for a period of months or even years.

Under current law, the Federal Government counts each small lease payment from inherited trust lands as income and then reduces the individual recipient's Federal benefits by a corresponding amount. Also, since these calculations are often based on trust income received in the previous year, benefit reductions can be made in years when income is not even received.

Federal programs treat individual trust moneys with such harshness that the Nation's poorest population repeatedly faces distressing and unnecessary benefit denials or reductions, and loss of medical benefits, due to small amounts of unpredictable income from fractionated trust lands. The practical result of current policy is that tribal members frequently end up with neither trust money nor Federal benefits during one of many months of the year.

For example, the SSI Program, upon which may tribal elders depend, bases its monthly payments on increasingly inaccurate estimates of future trust income and counts trust income even if it is unavailable, that is, previously assigned with BIA consent. The VA's improved pension program, the AFDC Program, and even the BIA's own general assistance program are harsher yet, leaving poor Indian families with inadequate income for months on end by averaging the trust money over several or many months to assure that every dollar of trust money that may arguably be received is offset by a loss of equivalent Federal benefits. In many cases, this offset trust income is never received and not even available.

The bill I am introducing today would benefit primarily tribal members, and especially tribal elders, who face continuing financial uncertainly as they seek to supplement small trust income with Federal welfare benefits. A study of income received from land lease rentals on the Rosebud Reservation in South Dakota, conducted by Sinte Gleska College in 1988, found that over 70 percent of those receiving trust income received less than $200 per year. The study also showed that 50 percent received less than $50 per year or no income at all.

The counting of trust income against Federal entitlement benefits is a breach of the fiduciary duty that every Federal agency owes to protect trust income for the benefit of Indian people, and this breach invites endless litigation. Even without appeals and litigation, the cost to the BIA and other Federal agencies of keeping accurate track of multitudinous small lease and grazing payments for purposes of program eligibility is enormous in terms of program time and money, undoubtedly more than the Federal money saved by resulting reductions in entitlements. Additional costs are transferred to tribes which try to mitigate the financial and emotional harm to tribal members caused by these policies.

Congress has specifically protected all types of Indian moneys other than trust income, including tribal per capita payments, from this offset requirement. The bill I am introducing would provide the tribal elders and families who are current heirs to allotted and restricted trust lands with similar protection for up to $4,000 of their trust income per year.

Finally, Mr. President, the Congress last year included this bill as a provision in H.R. 11, a bill vetoed by President Bush in the closing days of his administration. I hope the Senate will consider it carefully again and move to address this important problem.

Mr. President, I ask unanimous consent that the bill be printed in full at the conclusion of these remarks.

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

S. 576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".•

By Mrs. FEINSTEIN:

S. 577. A bill to resolve the status of certain lands relinquished to the United States under the Act of June 1897 (30 Stat. 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

RESOLVING THE STATUS OF LAND RELINQUISHED TO THE UNITED STATES

• Mrs. FEINSTEIN. Mr. President, today I am introducing legislation to remove a Federal cloud on the title to lands held by several thousand citizens throughout 10 Western States, most of them in California.

This legislation would resolve problems that arose from the so-called forest in lieu selection section of the Forest Management Act of 1897. The purpose of the 1897 act was to consolidate Federal holdings within the newly created national forests. Under the act, Congress invited landowners within the national forests to trade their land for comparable Federal lands elsewhere. The regulations under the act required that the private landowners first had to relinquish title to their lands in order to select other Federal lands. When the 1897 act was repealed in 1905, many private landowners had relinquished title, but had not had their selections approved or had simply had never made formal selections. Unfortu-

nately, the 1905 repealing legislation made no provision for reconveyance of the relinquished lands to the grantors.

Since then, various administrative programs, lawsuits and Congressional actions have attempted to address the thousands of title questions resulting from the conditional relinquishments, but did not completely resolve the problem. Today title to some 20,639 acres of private lands in national forests and 8,115 acres in areas administered by the Bureau of Land Management remains clouded and the properties are essentially unmarketable. Of the total 28,754 acres affected, some 10,825 acres are located in California. There are over 2,000 owners of the California lands, with the largest percentage of them owners of subdivided lots in the vicinity of Lake Arrowhead, Big Bear Lake, Castaic, and Newhall. Despite their equitable rights, these landowners may have no legal remedy because their claims may be barred by the applicable statute of limitations or because they cannot afford lengthy and expensive litigation.

The bill I am introducing resolves the problem. It requires the Secretaries of Agriculture and Interior to identify lands that were transferred to the United States under the 1897 act without compensation or selection rights received in return. Of these lands, the United States would retain title to those that are nationally significant and deed back to the original owners or their successors the rest of the lands. Owners of lands deemed to be nationally significant would be allowed to seek monetary relief for the lands retained by the United States. Additionally, the bill requires any persons seeking the benefits of the bill to waive all claims against the United States for any actions the agencies may have taken in disposing of timber or other resources from the lands and preserves any grants the agencies may have made to third parties, such as rights-of-way.

Mr. President, both the House and Senate passed this legislation late last year with a one-word difference. However, Congress adjourned before this difference could be corrected. Because of the thorough review the bill has had in the last Congress, I hope that the Senate will be able to expedite its consideration and passage this year.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to the invitation and requirements contained in the 15th paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended or supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 4, 1901 (31 Stat. 1010, 1037), and September 22, 1922 (42 Stat. 1067), certain landowners or entrymen within forest reserves acted to transfer their lands to the United States as the basis for an in lieu selection of other Federal lands (hereafter in this Act referred to as "lieu lands") in exchange for such lands within such reserves (hereafter in this Act referred to as "base lands").

(2) By the Act of March 3, 1905 (33 Stat. 1264), Congress repealed the in lieu selection provisions of the Act of June 4, 1897, as amended, and terminated the right to select lieu lands, but expressly preserved the rights of land owners who had valid pending applications for in lieu selections, most of which have subsequently been granted.

(3) Other persons affected by the Acts cited in paragraphs (1) and (2) who acted to transfer base lands, or their successors in interest, have never obtained either (A) a patent to the lieu lands or any other consideration for their relinquishment, or (B) a quitclaim of their base lands, notwithstanding relief legislation enacted in 1922 and 1930.

(4) By the Act of July 6, 1960 (74 Stat. 334), Congress established a procedure to compensate persons affected by the Acts cited in paragraphs (1) and (2) who had not received appropriate relief under prior legislation. However, no payments of such compensation were made under that Act.

(5) Section 4 of the Act of July 6, 1960, further provided that lands with respect to which compensation under that Act were or could have been made, and not previously disposed of by the United States, shall be a part of any national forest, national park, or other area withdrawn from the public domain wherein they are located.

(6) Absent further legislation, lengthy and expensive litigation will be required to resolve existing questions about the title to lands covered by section 4 of the 1960 Act.

(b) PURPOSE.—The purpose of this Act is to resolve the status of the title to base lands affected by the past legislation cited in subsection (a).

SEC. 2. IDENTIFICATION AND QUITCLAIM OF FEDERAL INTEREST IN BASE LANDS.

(a) QUITCLAIM.—Except as otherwise provided by this Act, and subject to valid existing rights, but notwithstanding any other provision of law, the United States hereby quitclaims to the listed owner or entryman, his heirs, devisees, successors, and assigns, all right, title, and interest of the United States in and to the base lands described on a final list published pursuant to subsection (d)(1), effective on the date of publication of such list.

(b) PREPARATION OF INITIAL LISTS.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior, with respect to lands under such Secretary's jurisdiction, and the Secretary of Agriculture with respect to National Forest System lands, shall each prepare an initial list of all parcels of base lands that were relinquished to the United States pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation were not realized or exercised.

(2) The initial lists prepared under paragraph (1) shall be based on information in the actual possession of the Secretaries of the Interior and Agriculture on the date of enactment of this Act, including information submitted to Congress pursuant to the directive contained in Senate Report No. 98-578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) NATIONALLY SIGNIFICANT LANDS.—(1) During preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned decides, in the concerned Secretary's discretion, should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, a national forest monument, or a national conservation area, a national recreation area, or any lands being studied for possible designation as part of such a system or unit.

(2) The provisions of subsection (a) shall not apply to any lands identified by the Secretary concerned pursuant to paragraph (1). The Secretary concerned shall not include any such lands on any list prepared pursuant to subsection (d). Subject to valid existing rights arising from factors other than those described in subsection (b)(1), any right, title, and interest in and to lands identified pursuant to paragraph (1) and not previously vested in the United States is hereby vested and confirmed in the United States.

(3) In the same manner as the initial list was published and distributed pursuant to subsection (b)(2), the Secretary concerned shall publish and distribute an identification of all lands in which right, title, and interest is vested and confirmed in the United States by paragraph (2).

(d) FINAL LISTS.—(1) As soon as possible after considering any requests made pursuant to subsection (b)(3) and the identification of lands pursuant to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall each publish a final list, consisting of lands included on each Secretary's initial list not identified pursuant to subsection (c)(1). Unless a Secretary has published a final list on or before the date 18 months after the date of publication, pursuant to subsection (b)(2), of such Secretary's initial list, the initial list prepared by such Secretary shall be deemed on such date to be the final list required to be published by such Secretary, and thereafter no lands included on such initial list shall be excluded from operation of subsection (a).

(2) If a court makes a final decision that a parcel of land was arbitrarily and capriciously excluded from operation of subsection (a), such parcel shall be deemed to have been included on a final list published pursuant to paragraph (1), unless such parcel is located wholly or partially inside a conservation system unit or any other area

which Congress has designated for specific management, in which case such parcel shall be subject to the provisions of subsection (c)(2).

(e) ISSUANCE OF INSTRUMENTS.—(1) Except as otherwise provided in this Act, no later than 6 months after the date on which the Secretary concerned publishes a final list of lands pursuant to subsection (d), the Secretary concerned shall issue deeds confirming the quitclaim made by subsection (a) of this section of all right, title, and interest of the United States in and to the lands included on such final list, subject to valid existing rights arising from factors other than a relinquishment to the United States of the type described in subsection (b). Each such confirmatory deed shall operate to estop the United States from making any claim of right, title, or interest of the United States in and to the base lands described in the deed, shall be made in the name of the listed owner or entryman, his heirs, devisees, successors, and assigns, and shall be in a form suitable for recordation and shall be filed and recorded by the United States with the recorder of deeds or other like official of the county or counties within which the lands covered by such confirmatory deed are located so that the title to such lands may be determined in accordance with applicable State law.

(2) The United States shall not adjudicate and, notwithstanding any provision of law to the contrary, does not consent to be sued in any suit instituted to adjudicate the ownership of, or to quiet title to, any base land included in a final list and described in a confirmatory deed.

(3) Neither the Secretary of the Interior nor the Secretary of Agriculture shall be required to inspect any lands included on a final list nor to inform any member of the public regarding the condition of such lands prior to the issuance of the confirmatory deeds required by this subsection, and nothing in this Act shall be construed as affecting any valid rights with respect to lands covered by a confirmatory deed issued pursuant to this subsection that were in existence on the date of issuance of such confirmatory deed.

(f) WAIVER OF CERTAIN CLAIMS AGAINST THE UNITED STATES.—Any person or entity accepting the benefits of this Act or failing to act to seek such benefits within the time allotted by this Act with respect to any base or other lands shall be deemed to have waived any claims against the United States, its agents or contractors, with respect to such lands, or with respect to any revenues received by the United States from such lands prior to the date of enactment of this Act. All non-Federal, third party rights granted by the United States with respect to base lands shall remain effective subject to the terms and conditions of the authorizing document. The United States may reserve any rights-of-way currently occupied or used for Government purposes.

SEC. 3. OTHER CLAIMS.

(a) JURISDICTION AND DEADLINE.—(1) Subject to the requirements and limitations of this section, a party claiming right, title, or interest in or to land vested in the United States by section 2(c)(2) of this Act may file in the United States Claims Court a claim against the United States seeking compensation based on such vesting. Notwithstanding any other provision of law, the Claims Court shall have exclusive jurisdiction over such claim.

(2) A claim described in paragraph (1) shall be barred unless the petition thereon is filed within 1 year after the date of publication of a final list pursuant to section 2(d) of this Act.

(3) Nothing in this Act shall be construed as authorizing any claim to be brought in any court other than a claim brought in the United States Claims Court based upon the vesting of right, title, and interest in and to the United States made by section 2(c)(2) of this Act.

(b) LIMITATIONS, DEFENSES, AND AWARDS.—(1) Nothing in this Act shall be construed as diminishing any existing right, title, or interest of the United States in any lands covered by section 2(c), including but not limited to any such right, title, or interest established by the Act of July 6, 1960 (74 Stat. 334).

(2) Nothing in this Act shall be construed as precluding or limiting any defenses or claims (including but not limited to defenses based on applicable statutes of limitations, affirmative defenses relating to fraud or speculative practices, or claims by the United States based on adverse possession) otherwise available to the United States.

(3) Nothing in this Act shall be construed as entitling any party to compensation from the United States. However, in the event of a final judgment of the United States Claims Court in favor of a party seeking such compensation, or in the event of a negotiated settlement agreement made between such a party and the Attorney General of the United States, the United States shall pay such compensation from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(c) SAVINGS CLAUSE.—This Act does not include within its scope selection rights required to be recorded under the Act of August 5, 1955 (69 Stat. 534), regardless of whether compensation authorized by the Act of August 31, 1964 (78 Stat. 751) was or was not received.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BENNETT, Mr. BOND, Mr. BRADLEY, Mr. BUMPERS, Mr. CAMPBELL, Mr. DANFORTH, Mr. DASCHLE, Mr. EXON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. SPECTER, Mr. WELLSTONE, and Mr. WOFFORD):

S. 578. A bill to protect the free exercise of religion; to the Committee on the Judiciary.

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

Mr. KENNEDY. Mr. President, I am honored to join with Senator HATCH and 31 other Senate colleagues in introducing the Religious Freedom Restoration Act of 1993. Identical legislation is being introduced today in the House of Representatives by Representative SCHUMER of New York, Representative COX of California, and over 130 other sponsors.

The Supreme Court's 1990 decision in Oregon Employment Division versus Smith sharply limited the first amendment's guarantee of freedom of religion. Until then, Government actions that interfered with individuals' ability to practice their religion were prohibited, unless the restriction met a strict two-part test. It must be necessary to achieve a compelling governmental interest, and there must be no less burdensome way to achieve the goal.

The compelling interest test had been the constitutional standard for nearly 30 years. Yet, in 1990, the Court abruptly abandoned it. Under the new standard, there is no special constitutional protection for religious liberty, as long as governmental restrictions are neutral on their face as to religion and have general application.

The bill we are reintroducing today restores the compelling interest test by statute. Not every free exercise claim will prevail. The previous standard had worked well for many years, and it deserves to be reinstated.

Few issues are more fundamental to our country. America was founded as a land of religious freedom and a haven from religious persecution. Two centuries later, that founding principle has been endangered. Religious liberty is damaged each day the Smith decision stands. Since Smith, more than 50 cases have been decided against religious claimants, and harmful rulings are likely to continue.

As a result of the Smith decision, it has been suggested that Government could regulate the selection of priests and ministers, dry communities could ban the use of wine in communion services, government meat inspectors could require changes in the preparation of kosher food, and school boards could force children to attend sex education classes contrary to their faith.

Because of this threat to religious freedom, organizations with widely divergent views strongly support this legislation, including the National Council of Churches, the National Association of Evangelicals, the United States Catholic Conference, the American Jewish Committee, the American Muslim Council, the Southern Baptist Convention, the Baptist Joint Committee, the Episcopal Church, the Christian Legal Society, the Church of Jesus Christ of Latter-day Saints, the American Civil Liberties Union, People for the American Way, Coalitions for America, Concerned Women for America, and the House School Legal Defense Association.

I am especially pleased that in this year's bill, we have been able to clarify its provisions to meet concerns expressed by the U.S. Catholic Conference that the legislation might be construed to provide a basis for challenging government programs that benefit religious organizations. That

was never the intent of the bill, and it was not the result of the pre-Smith test. This year's bill makes clear that, so long as government programs are consistent with the Establishment Clause of the Constitution, they do not violate the legislation. The Catholic Conference has endorsed the 1993 legislation, and we are very pleased to have their support.

It should also be clear that the bill does not give practitioners of a particular religion the right to violate general criminal laws protecting public safety. Our society clearly has a compelling interest in protecting people and property. Criminal behavior cannot and would not overcome that important interest.

President Clinton has endorsed this legislation, and we are grateful for the administration's support. With the bipartisan assistance of our colleagues and the hard work of the organizations supporting the legislation, I am confident that we will have the bill on the President's desk this year.

I ask unanimous consent that the text of the bill, the text of a letter from President Clinton, and a section-by-section analysis of the bill may be printed in the RECORD.

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

S. 578

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 "Religious Freedom Restoration Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not burden religious exercise without compelling justification;

(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the compelling interest test as set forth in Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is burdened; and

(2) to provide a claim or defense to persons whose religious exercise is burdened by government.

SEC. 3. FREE EXERCISE OF RELIGION PROTECTED.

(a) IN GENERAL.—Government shall not burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION.—Government may burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) JUDICIAL RELIEF.—A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

SEC. 4. ATTORNEYS FEES.

(a) JUDICIAL PROCEEDINGS.—Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting "the Religious Freedom Restoration Act of 1993," before "or title VI of the Civil Rights Act of 1964".

(b) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(C) of title 5, United States Code, is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the semicolon at the end of clause (iii) and inserting ", and"; and

(3) by inserting "(iv) the Religious Freedom Restoration Act of 1993;" after clause (iii).

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a State, or a subdivision of a State;

(2) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term "exercise of religion" means the exercise of religion under the First Amendment to the Constitution.

SEC. 6. APPLICABILITY.

(a) IN GENERAL.—This Act applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this Act.

(b) RULE OF CONSTRUCTION.—Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act.

(c) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

TEXT OF LETTER FROM PRESIDENT CLINTON TO SENATOR KENNEDY

I am pleased that you and Senator Hatch, and Representatives Schumer and Cox, will be reintroducing the Religious Freedom Restoration Act (RFRA).

The right to practice one's faith free from governmental interference is among the most fundamental liberties protected by our Constitution. That right was seriously undermined by the Supreme Court's 1990 decision in the *Smith* case.

RFRA is urgently needed to restore full legal protection for the exercise of religion. I look forward to working with the Congress to secure speedy enactment of this important legislation.

SECTION-BY-SECTION ANALYSIS

SECTION 1. This section provides that the title of the Act is the Religious Freedom Restoration Act of 1993.

SEC. 2. In this section, Congress finds that the framers of the Constitution recognized that religions liberty is an inalienable right, protected by the First Amendment, and that government laws may burden that liberty even if they are neutral on their face. Congress also determines that the Supreme Court's decision in *Employment Division* v. *Smith* eliminated the compelling interest test for evaluating free exercise claims previously set forth in *Sherbert* v. *Verner* and *Wisconsin* v. *Yoder*, and that it is necessary to restore that test to preserve religious freedom. The section recites that the Act is intended to restore the compelling interest test and to guarantee its application in all cases where the free exercise of religion is burdened.

SEC. 3. This section codifies the compelling interest test as the Supreme Court had enunciated it and applied it prior to the *Smith* decision. The bill permits government to burden the exercise of religion only if it demonstrates a compelling state interest and that the burden in question the least restrictive means of furthering the interest. It permits persons whose religious exercise has been burdened in violation of the Act to assert that violation as a claim or defense in a judicial proceeding and to obtain appropriate relief against a government. Standing to assert such a claim or defense is to be governed by the general rules of standing under Article III of the Constitution.

SEC. 4. This section amends attorneys' fees statutes to permit a prevailing plaintiff to recover attorneys fees in the same manner as prevailing plaintiffs with other kinds of civil rights or constitutional claims.

SEC. 5. This section defines the terms "government", "State", "demonstrates" and "exercise of religion". "Government" includes any agency, instrumentality or official of the United States, any State or any subdivision of a State. "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and every territory and possession of the United States. "Demonstrates" means to meet the burden of production and persuasion. "Exercise of religion" means the exercise of religion under the First Amendment.

SEC. 6. This section states that the Act applies to all existing state and federal laws, and to all such laws enacted in the future. It also clarifies that the authority it confers on the government should not be construed to permit any government to burden any religious belief.

SEC. 7. This section makes it clear that the legislation does not alter the law for determining claims made under the Establishment Clause of the First Amendment. It also

confirms that granting government funding, benefits or exemptions, to the extent permissible under the Establishment Clause, does not violate the Act; but the denial of such funding, benefits or exemptions may constitute a violation of the Act, as was the case under the Free Exercise Clause in *Sherbert* v. *Verner*.

Mr. HATCH. Mr. President, I am pleased today to introduce, along with Senator KENNEDY and others, the Religious Freedom Restoration Act [RFRA] of 1993. This legislation responds to the Supreme Court's April 17, 1990, decision in *Employment Division* v. *Smith*, 494 U.S. 892 (1990). In the Smith case, the Supreme Court abandoned the compelling State interest standard of review for government practices burdening an individual's exercise of religion where the Government action involves a "valid and neutral law of general applicability." 494 U.S. at 879.

In my view, the standard outlined by the Court in Smith does not sufficiently protect an individual's first amendment right to the "free exercise" of religion. Freedom of religion is the first freedom in the Bill of Rights, guaranteed to every individual, not just those who practice their faith in a majority religion. I do not believe the Framers of the first amendment envisioned that the religious minority would remain at a relative disadvantage in our society as an unavoidable consequence of our democratic government, as the Court suggests. In my view, it was exactly this relative disadvantage a religious minority might suffer that the authors of the first amendment specifically sought to avoid and protect against. The free exercise of religion is not a luxury afforded our citizenry, but a well conceived and fundamental right.

In a Senate hearing held this past Congress, religious leaders like Elder Dallin Oaks of the highest governing body of the Church of Jesus Christ of Latter-day Saints, testified before our committee and underscored the urgency and critical importance of this legislative initiative. Supporters of this legislation include over 55 groups, representing an extremely broad and diverse coalition of religious and civil liberties organizations, including the U.S. Catholic Conference.

It is clear to me a legislative response is critical to the preservation of the full range of religious freedoms the first amendment guarantees to the American people, particularly those whose religious beliefs and practices differ from the religious majority in our country. This bill will serve to reestablish those rights guaranteed in the first amendment by imposing the "compelling state interest" standard for judicial review of governmental action which burdens an individual's free exercise of religion.

It is imperative Congress act expeditiously in response to the Smith decision. I look forward to working with Senator KENNEDY, the distinguished chairman of the Judiciary Committee, Senator BIDEN, and others, in reaffirming this fundamental right to the free exercise of religion.

By Mr. SMITH:

S. 579. A bill to require Congress to comply with the laws it imposes on others; to the Committee on Governmental Affairs.

REQUIRING CONGRESS TO COMPLY WITH MANDATES IT IMPOSES ON OTHERS

• Mr. SMITH. Mr. President, I am today introducing legislation which would require Congress to comply with the mandates it imposes on everyone else.

Over the past 30 years, the Federal Government has heaped one regulation after another on the private sector. According to the U.S. Chamber of Commerce, business spent approximately $70 billion in 1992 merely to comply with the costs of clean air, disability, and other new regulations.

Is it any wonder that American business finds itself weighed down by regulations which make it almost impossible to compete with countries such as Japan, Taiwan, and Korea?

As much as the American public resents the foolish and counterproductive impositions placed on it by the Federal Government, what they resent even more is the fact that the legislators who have piled all these burdens on the general public somehow feel that they themselves are above any requirement of compliance.

Last year, the Senate took a terrified first step in the direction of congressional accountability. It created a Senate Office of Fair Employment Practices to hear complaints from Senate employees that their rights were violated at the hands of the Senate itself. It is now apparent that the procedure it created was a sham.

This office, delegated to monitor the Senate, is itself appointed by the Senate. Its power is limited to mediation, rather than any binding arbitration. And clearly, this convoluted procedure continues to send a message to the American people that Congress has placed itself above the law.

Mr. President, the bill I am introducing today would reverse this disturbing and hypocritical trend.

First, I would apply to Congress six current statutes from which Congress has conveniently exempted itself. These are: The Americans with Disabilities Act; Federal prohibitions against race discrimination; the National Labor Relations Act; the Fair Labor Standards Act; the Equal Pay Act; and the Occupational Safety and Health Act.

These statutes would be applicable to Members of Congress in the same manner as other Americans. In addition, my bill would require a supermajority of three-fifths of those Senators and House Members chosen and sworn for any future legislation of general applicability which sought to exempt Congress from its provisions.

In summary, Mr. President, what's sauce for the goose is sauce for the gander. If we are going to impose regulation after regulation on American business, the least we can do is hold ourselves accountable. This legislation would force Members of Congress to comply with the same laws as other Americans. I urge its adoption.•

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 580. A bill to enhance the competitiveness of the United States in the global economy through the establishment of Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

TRADE REORGANIZATION ACT OF 1993

Mr. ROTH. Mr. President, I rise today to reintroduce legislation establishing a Cabinet-level Department of Trade. I am again pleased to be joined in this effort by Senators DOLE, BOREN, MOYNIHAN, COHEN, and LIEBERMAN.

As I said when introducing my Reinventing Government Act, S. 15, we need to create a new government structure that is much less bureaucratic and more responsive in its service to the public. As a long time advocate of streamlining government and improving program effectiveness, I must say that I am encouraged by the President's renewed pledge to reexamine the executive branch. During the past decade, companies all across America have had to restructure for the 21st century and in my view, the Federal Government faces an obligation to do the same. The American taxpayer deserves nothing less.

While there are many areas of our Government that call for reform, none in my opinion is more urgent or important than trade. According to the Carnegie Endowment of International Peace and the Institute for International Economics, "if we wish to compete in the new global economy and deal effectively with other 'new priorities,' reorganizing the government for the postcold war world is a necessity, not a luxury.

The importance of our ability to compete in international markets is central to our future economic growth, our domestic welfare and our national security. Just as America prevailed in the cold war, we must continue to lead the world in the global economy of the next century. Our present system, by failing to integrate into our overall policy economic and other global concerns, makes it virtually impossible to develop a coherent and effective strategy for the post-cold war era. As President Eisenhower observed more than 30

years ago, poor organization "can scarcely fail to result in inefficiency and can easily lead to disaster."

If we really want to restake our claim in the international marketplace, we must get organized and project a strong, resolute trade presence to the world that will command respect and serve our domestic trade interests. By streamlining our Government's trade functions, the United States will finally be able to speak with a single, strong voice on trade matters. A new department dedicated to trade will also expand our exports by giving American firms and workers the tools necessary to compete and win in international competition. And by enhancing our ability to compete in the global economy, a Cabinet-level department of trade will create new American jobs.

BACKGROUND

Mr. President, a trade department is by no means a new idea. I introduced legislation in 1983 and again in 1987 to create such a department. Other members of Congress, both in the House and in the Senate, have also advocated various models of trade reorganization during the past decade. But while the idea of a cabinet-level trade department is not a new idea, it is an idea whose time has come.

As many of you know, the Governmental Affairs Committee held hearings on trade reorganization in 1983. First to testify before the committee at those hearings was the distinguished Senator from New York, Senator MOYNIHAN. Senator MOYNIHAN testified that:

Our current trade policy-making apparatus is woefully inadequate. We need to create a single Department, single organization and a single cabinet level voice responsible for making and coordinating trade policy. And we must do it soon. To delay or to avoid this consolidation is to condemn our trade policy to inaction, indecision and inertia.

As Senator MOYNIHAN put it, "while organization isn't everything, disorganization isn't anything."

The late Malcolm Baldridge, who as many of you know was a great proponent of trade reorganization, also testified before the Committee on Governmental Affairs that:

If we are to meet the challenges of foreign competition and maintain and enhance the multilateral framework for trade, we must take the institutional steps that will be necessary to meet those challenges. Trade policy formulation, negotiation, regulation and promotion are closely intertwined. They cannot efficiently or effectively be artificially separated in different cabinet-level organizations.

The Secretary of Commerce continued:

Our national interest in trade deserves the most effective organization we can design for the challenges just ahead. We need a Cabinet-level Department that can act to assure that the U.S. economy gets maximum benefit from international trade during these demanding and dangerous years.

Also testifying before the Committee on Governmental Affairs was former Trade Representative Robert Strauss. Ambassador Strauss testified that the establishment of a department of trade "would give trade issues a higher visibility within our Government and send a signal to our partners that trade policy will no longer be relegated to secondary status." Ambassador Strauss expressed his concern to the committee that other nations, seeing the fragmented responsibilities for trade in the U.S. Government, would judge that "we do not take trade issues seriously." According to Strauss, one of the strengths of the reorganization proposal "is its potential for longer-range policy planning, particularly with regard to an aggressive export policy."

In its 1984 report on trade reorganization, the Committee on Governmental Affairs concluded:

The present trade organization has four basic failings: (1) it does not focus national and Presidential attention on trade; (2) it divides trade leadership, leaving our government without a strong trade advocate and hindering the development of coherent, strategic trade policy; (3) it is a management nightmare requiring principal trade policy officials to spend a significant portion of their time on coordination rather than on design and implementation of effective trade policy; and (4) it does not adequately support improvements in U.S. competitiveness.

More recently, a 1992 study by the Competitiveness Policy Council concluded that "our present governmental structure was not designed to help this country compete in a global economy." According to the Progressive Policy Institute, "government is virtually the only sector of American society that has yet to confront the need to reinvent itself for the information age."

More specifically, in "Mandate For Change," the Progressive Policy Institute asserts:

New priorities require new institutional arrangements. If the Clinton administration is going to elevate trade and competitiveness within its foreign policy priorities; if it is going to expand the scope, pace, and impact of multilateral and bilateral trade talks; if it is going to coordinate the pursuit of trade and noneconomic goals—then it will need to reorganize the system the government uses to pursue its trade and competitiveness objectives.

The Clinton Administration should press for Congressional cooperation to abolish USTR and the Commerce Department, moving their trade functions, and many similar functions in other departments, into a streamlined Department of Trade and Technology. The new department should have responsibility, in all goods and service sectors, for negotiating and implementing trade agreements, for operational and analytical support, for technology policy, for export financing, for many import and export controls, and for liaison to industry. By replacing many of the duplicative and fragmented divisions and agencies involved with trade today, such a department would provide better coordination and leadership on these critical issues.

In a similar vein, Ambassador Alan Wolff, who served as the U.S. Deputy Representative for Trade Negotiations from 1977 to 1979 and is coauthor of "Conflict Among Nations—Trade Policies in the 1990's," argued that the "United States should establish a Department of Trade." In a presentation before the Economic Strategy Institute in Washington, D.C. on October 5, 1992, Ambassador Wolff remarked:

Unfortunately, trade policy formulation has become a step-child in the government's decision-making process. There is duplication, conflict and confusion. A consolidation of functions and a reduction in the number of agencies involved is clearly called for. The United States should establish a Department of Trade. This would bring together all the line functions affecting trade—analysis, negotiations, enforcement, implementation, and export promotion. Recognizing the special international negotiating role of the Secretary of Trade, he or she would retain the function of personal representative of the President in trade negotiations.

The General Accounting Office, in its most recent transition series report, also indicated that there is a need to develop and implement a comprehensive Government strategy for export promotion programs which are currently spread among many agencies. The GAO characterized the existing Department of Commerce as "likely facing the most complex web of divided authorities" within our government and urged that the current components of Commerce be carefully examined with an eye toward "spinning off or eliminating those components that do not fit."

Finally, during his recent confirmation hearing to become Director of the Office of Management and Budget, Congressman Leon Panetta testified that "we have got to create a more central focus on trade issues." Recognizing that trade is a fundamental element of our economy, Congressman Panetta argued that "if we are going to get into the 21st century and be competitive with the Japanese and with the Germans and with the French and with the rest of the world, we have got to emphasize the trade side of this thing—and look seriously at the element of reorganization and trying to centralize these agencies."

As indicated, there is a very distinguished history of support for the idea of a Cabinet-level department of trade. While I understand that it is not easy to abandon the status quo, we should heed the seasoned advice of our top trade leaders and get organized for the future. As the Republican leader and cosponsor of this legislation, Senator DOLE, wrote in the Journal of Commerce last spring:

We have been debating trade reorganization for years. Let's stop debating and start reorganizing in a way that will give us a lean, mean governmental structure to attack our trade problem.

STRUCTURE

A carefully crafted department of trade will provide this country with a

trade infrastructure that will be a source of strength and reliability for years to come. Briefly, the Trade Reorganization Act of 1993 proposes to consolidate the principal executive branch trade functions within a single, Cabinet-level Department of Trade. The new Department will incorporate the related economic affairs and business elements of the existing Commerce Department, including the International Trade Administration, the Bureau of Export Administration, the functions of the Under Secretary for Economic Affairs, other than Census, and the U.S. Travel and Tourism Administration. Furthermore, the Overseas Private Investment Corporation, the Export-Import Bank, the Trade and Development Agency and Bureau of Private Enterprise will move to the new Department.

Under my proposal, the remaining elements of the Department of Commerce will be reassigned to other areas of the Government resulting in no net gain in the number of Cabinet-level departments. Thus, the Bureau of the Census will combine with the Bureau of Labor Statistics and the Minority Business Development Agency will combine with the Small Business Administration. Under my proposal, the National Oceanic and Atmospheric Administration and the Technology Administration will become independent agencies of the U.S. Government. In addition, the Technology Administration would gain the added resources of the Patent and Trademark Office and the National Telecommunications and Information Administration.

As President Clinton has remarked, we need to bring together the resources necessary to develop cutting-edge products and technologies and to convert from a defense to a peacetime economy. An integrated and revitalized Technology Administration would strengthen our government's ability to implement policies designed to speed technology transfer from the laboratory to the marketplace, thereby creating new jobs. I might add that while my bill proposes an independent U.S. Technology Administration, I would not be adverse to housing that organization within a larger Department of Trade and Technology as recommended by the Progressive Policy Institute and others. This is, in fact, structurally closer to the reorganization I have advocated in past years, and would achieve the uniform goal of enhancing America's economic competitiveness.

LEADERSHIP

In the trade war in which we are engaged, we are losing ground because of our divided trade leadership. For too long our trade interests have had no central authority to turn to for straight, dependable, consistent information on trade policy, and our trade competitors are free to shop the system for the best deal for their particular interests. Lack of clear trade leadership often creates confusion and allows our economic competitors to use "divide-and-conquer" tactics to influence the trade policy-making process.

Indeed, in "A Japan That Can Say No," Shintaro Ishihara writes:

> Relations are very poor between the Department of Commerce and the U.S. Trade Representative. [The USTR] and [the Secretary of Commerce] quarreled like dogs and monkeys, they never got along and were always bad mouthing each other.

According to the Carnegie Endowment of International Peace and the Institute for International Economics "confusion between the USTR and the Secretary of Commerce continues so much so that in foreign eyes the United States has often appeared to have two Trade Ministers." One can argue that things will be different now, under new leadership and new players. But already there is the same confusion that has characterized the past. During his confirmation hearing last month, Commerce Secretary Ron Brown promised that he would make the Department of Commerce "the lead agency in trade policy." By elevating the USTR to the Secretary level and by consolidating trade leadership within one office as suggested in my bill, there should no longer be any question as to who is boss when it comes to matters affecting U.S. trade interests. For the first time in our history, a single department dedicated to trade will be responsible for both policymaking and policy implementation.

NEGOTIATIONS

While our trade agenda has expanded enormously over the past decade, our ability to meet new needs has not. The small staff at United States Trade Representative is just not sufficient to handle all of the detailed work required for increasingly complex negotiations such as NAFTA and the Uruguay round. Moreover, the future areas of major trade negotiation will likely be in areas such as competition policy and the environment. The issues are no longer simply tariffs and typical nontariff barriers, but are more fundamental such as the way in which major market economies are structured and how they affect trade patterns. There are also issues related to the growing regionalism in the world economy and how that will affect the evolution of our trade system as we know it.

Clearly, addressing these and other crucial trade issues requires additional expertise and resources at the Office of the U.S. Trade Representative beyond a few more staff. One only has to look at the number of trade negotiations we have had with Japan and the number of United States Trade Representative officials staffing them. As it stands now there are only five professional staff in the United States Trade Representative's Japan and China office, and one of them focuses exclusively on China. Of course the U.S. Trade Representative can ask Commerce to handle the detailed tasks, but the U.S. Trade Representative has no management control over the results. This kind of management inefficiency stifles creativity and hampers quality performance—elements that are increasingly important as we seek to break new ground in our international trade agreements and in the implementation of domestic trade laws.

Another problem is that our trade negotiators often lack the experience and detailed professional competence of their foreign counterparts. Unfortunately, the absence of a clear and attractive career path for international trade experts discourages many talented individuals from staying in the government. That is why I have included a provision in the bill recommending the creation of a Professional Trade Service Corps designed to attract and retain the very best trade personnel. Under this provision, the Trade Representative's office will be transformed into a corps of trade experts. Not only will the new department be lean, under 4,000 employees, it will also be muscular.

In addition to clear trade leadership and a strong team of negotiators, the Trade Reorganization Act establishes three distinct bureaus to support the new department.

TRADE POLICY AND ANALYSIS

First, the bill establishes a new Bureau of Trade Policy and Analysis to provide analytical and policy support to the Secretary. The two components within the Commerce Department now responsible for assisting the U.S. Trade Representative in bilateral and multilateral trade negotiations, namely trade development and international economic policy, will combine with the existing Office of Economic Analysis to form the new bureau. The combined bureau is designed to ensure that our trade negotiators have the organizational support they deserve and will provide American business with a central point of contact within the Department.

TRADE AGREEMENTS

Second, the United States must do a better job of monitoring and enforcing its trade agreements. The Uruguay round itself, if concluded successfully, will require an enormous amount of close attention and monitoring to ensure that our trading partners fulfill their obligations under the agreement. There needs to be a more focused effort aimed at enforcing U.S. trade laws and monitoring existing agreements to ensure that our businesses are getting a fair shake. That is why the legislation that I am introducing today combines the forces of both the Export and Import Administrations in a new Bureau of Trade Administration designed to ensure that all our trade agreements and laws are enforced to their fullest extent.

EXPORT PROMOTION

Third, and perhaps most importantly, we need a national export vision. As in other areas of trade, our export promotion functions are dispersed throughout the Federal Government. There is nothing in my judgment more important to get this country moving again, to create jobs and growth, than for us to do a better job in exporting American-made products and services.

According to his January 8, 1993, testimony before the Governmental Affairs Committee, the Director of International Trade and Finance Issues of the General Accounting Office, Dr. Alan Mandelowitz, asserted:

In order to do a good job in export promotion, you need to know what your mission is, you need to have a field structure, you need to have expertise in your organization, and you need to have resources. Because we have spread export promotion among so many agencies, we do not have all those aspects of an effective organization in one place.

At the Commerce Department, in the Foreign Commercial Service, we have an organization which has made tremendous strides in improving its effectiveness. It has studied in depth its mission, its programs; it has improved the expertise of its organization and its people, but it has very limited resources.

At the Ex-Im Bank, you have an agency with the resources and expertise, but no field structure to deliver those resources. At the Small Business Administration, you have a large field structure and you have a lot of resources, but you have no expertise in the delivery of export assistance, and as a result, they provide almost no assistance to exporters.

And in the Trade Development Program, you have an agency with assistance to help underwrite the cost of feasibility studies for major projects overseas in the hopes that if we fund the feasibility studies, we'll have a more attractive opportunity for exporting to those projects when they are implemented, but that organization is a stand-alone organization which is not integrated with all the others.

Until we begin to address this kind of fracturing of our export promotion services, we are going to continue to dissipate the resources we have available, and we will continue, I think, to not make the most effective use of available resources in an area that is so critical to our economic success and competitiveness today.

My reorganization proposal establishes a new Bureau of Export Promotion within the trade department that will include the United States and Foreign Commercial Service, the Trade and Development Agency, the Export-Import Bank, OPIC and the U.S. Travel and Tourism Administration. While the United States and Foreign Commercial Service has made significant improvements in our government's export promotion functions, I believe we can do better. As it stands now, only one-third of our manufacturing companies are exporting. By combining our trade marketing and financing arms under one roof, I believe that American businesses will benefit from enhanced exports.

The centerpiece of the new Bureau of Export Promotion—the United States and Foreign Commercial Service—will be beefed up in two important respects. First, the Administrator of the U.S. Travel and Tourism Administration will report to the Director General of the United States and Foreign Commercial Service and will continue to be responsible for conducting programs designed to increase U.S. export earnings through travel and tourism. Second, the Trade and Development Agency, currently associated with the Agency for International Development, will transfer to the Foreign Commercial Service. As you know, that program supports feasibility studies by U.S. firms and is intended to win substantial follow-up contracts for project implementation, again boosting exports.

It is absolutely crucial that we provide U.S. businesses with the financial backing to compete in world markets. Under the reorganization, the Under Secretary of Trade for Export Promotion will become the Chairman of both Exim and OPIC. Exim will continue to provide direct credits, guarantees and insurance, plus intermediary loans to commercial banks and will work closely with the United States and Foreign Commercial Service in beefing up exports. Similarly, OPIC will continue to operate financial services and political risk insurance to encourage U.S. investment in developing countries.

The idea is simple: increase U.S. exports and create new American jobs. It has been said that every billion dollars of U.S. exports creates nearly 20,000 new jobs. Significantly, exports have accounted for seventy percent of U.S. economic growth since 1988 and today support the jobs of more than 7.5 million Americans. According to President Clinton, "we now have over 7 million export-related jobs in America. They tend to involve better work and better pay * * *. They are exactly the kind of jobs we need for a new generation of Americans."

CONCLUSION

As President Clinton declared upon assuming office, "(p)rofound and powerful forces are shaking and remaking our world. * * * We know we have to face hard truths and take strong steps. But we have not done so. Instead, we have drifted, and that drifting has eroded our resources, fractured our economy, and shaken our confidence." According to the President, "we must look new at institutions we use to chart our way in the global economy and ask whether they are serving our interest in this new world, or whether we need to modify them or create others."

In my view, there has never been a stronger case for trade reorganization than today. The world has fundamentally changed in recent years and one thing remains absolutely clear—our competitive posture in world markets will be a critical determinant of our national strength in years ahead. I would urge every one of my colleagues to give this proposal the serious consideration it deserves and to join with me, Senator DOLE, Senator BOREN, and Senator COHEN in moving this bill through Congress and on to the President. As Abraham Lincoln observed over a century ago, "the dogmas of the quiet past are inadequate to the stormy present. As our case is new, we must think anew, and act anew." Unless the United States puts muscle and coherence into its trade policy, we may squander what is perhaps our greatest growth opportunity.

Mr. President, I ask unanimous consent to include the bill in the RECORD.

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

S. 580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Reorganization Act of 1993".

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TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds that—

(1) principal national goals of the United States are to—

(A) maintain United States leadership in international trade liberalization and expansion efforts;

(B) reinvigorate the ability of the United States economy to compete in international markets and to respond flexibly to changes in international competition; and

(C) expand United States participation in international trade through aggressive promotion and marketing of American products and services;

(2) the economy of the United States is so inextricably linked with the international economic system that all domestic economic sectors are influenced by the dynamics of global trade and investment;

(3) the expansion of United States participation in international trade will improve the general welfare of the people of the United States by increasing demand for American products and services, creating jobs, and increasing the gross national product;

(4) business, labor, and all levels of government must place the highest priority on developing methods and policies to achieve the goals described in paragraph (1), and the achievement of such goals is dependent on a marked improvement in the capability of United States businesses to compete in foreign markets;

(5) the Federal Government can enhance the capability of United States businesses to compete in foreign markets by acting to—

(A) reduce political and economic barriers to sales and investments by such businesses;

(B) promote American goods and services in foreign countries;

(C) encourage aggressive participation by the private sector in the international marketplace; and

(D) develop policies to enhance productivity and long-term growth;

(6) effective and efficient Government action to enhance the capability of United States businesses to compete in foreign markets requires coordination of the development and implementation of Government policies relating to the international trade interests of the United States;

(7) the Federal Government can enhance the capability of State governments to expand foreign markets for goods and services produced in such States by—

(A) providing information resources suitable for developing and conducting international export programs in the States;

(B) coordinating activities of Federal overseas trade facilities with State international trade offices;

(C) providing practical and technical assistance to States developing or conducting international export and investment programs; and

(D) taking appropriate actions to promote the availability of such information and assistance;

(8) effective and efficient Government action with respect to international trade further requires the employment of a corps of personnel consisting of individuals who, like the personnel of the governments of United States trading partners, are highly experienced and educated in international trade operations and negotiations;

(9) the present organizational structure of Government administration of international trade activities is so diffuse that inconsistent and contradictory policies and actions result;

(10) such inconsistent and contradictory policies and actions inhibit domestic trade interests, create trade opportunities for our international competitors, and discourage experienced Government personnel from career service in international trade activities;

(11) United States performance in international trade is fundamentally linked to the competitiveness of American industry in the world economy;

(12) improvements in the competitiveness of United States industry, products, and services can be aided by reducing traditional antagonisms among government, industry, labor, and the public;

(13) a lack of analytical capability and knowledge concerning the competitive position of American industries and foreign industries greatly hampers or delays the ability of the United States to formulate responsible trade policies and policies that affect the international competitiveness of domestic industries;

(14) the consolidation of Government functions relating to international trade, including functions relating to technical analysis, policymaking, international negotiation, and operational responsibilities, into a Department of Trade shall provide the needed coordination of Government activity in international trade and will encourage the retention of the highly experienced personnel necessary for such coordination to be effective;

(15) the continued prosperity and overall competitive posture of the United States calls for a decisive and unified trade policy that vigorously promotes an equitable international trade environment in which the United States is able to compete fully and fairly;

(16) continued United States leadership in the world economy requires the formulation and implementation of a trade policy that is delineated and understood by the rest of the world;

(17) establishing a decisive and unified trade policy has become a number one priority of the United States;

(18) enhancing the process of consultation and advice between the executive branch, the Congress, and the private sector will assist in developing the consensus on and support for the trade policy of the United States;

(19) there is no one single agency or department within the executive branch with overall responsibility for the development, coordination, implementation, and administration of the United States trade policy, and the proliferation and division of agencies within the executive branch have weakened the overall leadership of the United States in international trade matters; and

(20) the economic well-being of the American people will be substantially enhanced through the creation of the Department of Trade.

DEFINITIONS

SEC. 102. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Trade;

(2) the term "Secretary" means the Secretary of Trade;

(3) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(4) the term "administrative and support functions" means legal functions, investigative functions, budget preparation and analysis functions, administrative functions, public information functions, and congressional relations functions carried out by a Federal agency, and such other support services as may be determined by the head of such agency;

(5) the term "executive department" has the meaning given to the term "Executive department" by section 101 of title 5, United States Code;

(6) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of such title; and

(7) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

TITLE II—DEPARTMENT OF TRADE

PART A—ESTABLISHMENT

ESTABLISHMENT OF DEPARTMENT

SEC. 201. (a) There is established an executive department to be known as the Department of Trade. The Department shall be administered by a Secretary of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Department of Trade shall be deemed the successor to the Department of Commerce for all purposes, including protocol.

FUNCTIONS OF THE SECRETARY

SEC. 202. (a) In addition to the functions transferred to the Secretary by this Act, such other functions as the President may assign or delegate to the Secretary, and such other functions as the Secretary may, after the effective date of this Act, be required to carry out by law, the Secretary shall—

(1) serve as the principal advisor to the President on international trade policy and advise the President on the impact of other policies of the United States Government on international trade;

(2) exercise primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, for developing and implementing international trade policy, including commodity matters and, to the extent related to international trade policy, direct investment matters and, in exercising such responsibility, advance and implement the goals described in section 101(1) as the primary mandate of the Department;

(3) exercise lead responsibility for the conduct of international trade negotiations, including negotiations relating to commodity matters and, to the extent that such negotiations are related to international trade, direct investment negotiations;

(4) exercise lead responsibility for the establishment of a national export strategy, including policies designed to implement such strategy;

(5) with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, issue policy guidance to other Federal agencies on international trade, commodity, and direct investment functions to the extent necessary to assure the coordination of international trade policy;

(6) seek and promote new opportunities for United States products and services to compete in the world marketplace;

(7) assist small businesses in developing export markets;

(8) support State governments involved in expanding foreign markets for goods and services produced in such States;

(9) enforce the laws of the United States relating to trade;

(10) analyze economic trends and developments in order to understand and foster the conditions that enhance productivity, growth, and competitiveness;

(11) report directly to the Congress—

(A) on the administration of, and matters pertaining to, the trade agreements program under Omnibus Trade and Competitiveness Act of 1988, the Trade Act of 1974, the Trade Expansion Act of 1962, and section 350 of the Tariff Act of 1930; and

(B) with respect to other important issues pertaining to international trade;

(12) keep each official adviser to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements who is appointed from the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives under section 161 of the Trade Act of 1974 currently informed on United States negotiating objectives with respect to trade agreements, the status of negotiations in progress with respect to such agreements, and the nature of any changes in domestic law or the administration thereof which the Secretary may recommend to Congress to carry out any trade agreement;

(13) consult and cooperate with State and local governments and other interested parties on international trade matters of interest to such governments and parties, and to the extent related to international trade matters, on investment matters, and, when appropriate, hold informal public hearings;

(14) serve as the principal advisor to the President on government policies designed to contribute to enhancing the ability of American industry and services to compete in international markets;

(15) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(16) identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(17) serve as the principal advisor to the President in identifying and assessing the consequences of any government policies which adversely affect, or have the potential to adversely affect, the competitiveness of United States industries and services; and

(18) promote cooperation between business, labor, and government to improve industrial performance and the ability of American industries to compete in international markets and to facilitate consultation and communication between the government and the private sector about domestic industrial performance and prospects as well as the performance and prospects of foreign competitors.

(b) The Secretary shall be the Chairman pro tempore of the interagency organization established under section 242 of the Trade Expansion Act of 1962.

(c) The Secretary shall be a member of the National Security Council.

(d) The Secretary shall be Deputy Chairman of the National Advisory Council on International Monetary and Financial Policies established under Executive Order 11269, issued February 14, 1966.

(e)(1) The Secretary of Trade shall consult with the Secretary of Agriculture or the designee of the Secretary of Agriculture on all matters which potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural products, the Secretary of Trade or the designee of such Secretary shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or the designee of such Secretary shall be Vice Chairman. The provisions of this paragraph do not limit the authority of the Secretary under subsection (g) to assign responsibility for the conduct of, or participation in, any trade negotiation or meeting to the Secretary of Agriculture.

(f) The Secretary shall be Chairman of the Trade Promotion Coordinating Committee established by the President on May 23, 1990.

(g) Except where expressly prohibited by law, the Secretary, at the request or with the concurrence of the head of any other Federal agency, may assign the responsibility for conducting or participating in any specific international trade negotiation or meeting to the head of such agency whenever the Secretary determines that the subject matter of such international trade negotiation is related to the functions carried out by such agency.

PART B—OFFICES AND BUREAUS

OFFICE OF THE TRADE REPRESENTATIVE

SEC. 211. There is established in the Office of the Secretary the Office of the Trade Representative. The Secretary, through the Office of the Trade Representatives, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 231.

BUREAU OF EXPORT PROMOTION

SEC. 212. (a) There is established within the Department, the Bureau of Export Promotion. The Bureau of Export Promotion shall be administered by the Under Secretary of the Bureau of Export Promotion who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of the Bureau of Export Promotion, shall perform all functions (other than administrative and support functions) transferred to the Secretary under sections 232(3)(A), 233, 234, and 235. The Bureau of Export Promotion shall be the Government's lead organization responsible for implement-

ing and devising United States trade promotion and financing efforts.

(b)(1) There is established within the Bureau of Export Promotion the—

(A) United States and Foreign Commercial Service;

(B) Export-Import Bank of the United States; and

(C) Overseas Private Investment Corporation.

(2)(A)(i) The United States and Foreign Commercial Service shall be administered by an Assistant Secretary, who shall serve as Director General of the United States and Foreign Commercial Service, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(ii) There is established the Trade and Development Agency and the United States Travel and Tourism Administration within the United States and Foreign Commercial Service. The Trade and Development Agency shall be administered by a Director and the United States Travel and Tourism Administration shall be administered by a Director. Both Directors shall be appointed by the President with the advice and consent of the Senate.

(B) The Export-Import Bank established under paragraph (1)(A) shall be administered by a President and a Board of Directors as provided under section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) as amended by section 233 of this Act.

(C) The Overseas Private Investment Corporation established under paragraph (1)(C) shall be administered by a President and a Board of Directors as provided under section 233 of the Foreign Assistance Act of 1961 (22 U.S.C. 2193) as amended by section 234 of this Act.

BUREAU OF TRADE POLICY AND ANALYSIS

SEC. 213. (a) There is established within the Department, the Bureau of Trade Policy and Analysis. The Bureau of Trade Policy and Analysis shall be administered by the Under Secretary of the Bureau of Trade Policy and Analysis who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary through the Under Secretary of the Bureau of Trade Policy and Analysis shall perform all functions (other than administrative and support functions) transferred to the Secretary under section 232(3)(B). The Under Secretary for Trade Policy and Analysis shall advise the Secretary of Trade on international trade and economic policy and provide assistance to the Secretary in multilateral and bilateral trade negotiations.

(b)(1) There is established within the Bureau of Trade Policy and Analysis the—

(A) Office of International Economic Policy;

(B) Office of Business Analysis; and

(C) Office of Economic Analysis.

(2) Each component of the Bureau of Trade Policy and Analysis established under paragraph (1) (A), (B), and (C) shall be administered by an Assistant Secretary who shall be appointed by the President, by and with the advice and consent of the Senate.

BUREAU OF TRADE ADMINISTRATION

SEC. 214. (a) There is established within the Department, the Bureau of Trade Administration. The Bureau of Trade Administration shall be administered by the Under Secretary of the Bureau of Trade Administration who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary through the Under Secretary of the Bureau of Trade Administration shall perform all functions (other than administrative and support functions) transferred to the Secretary under section 232(3)(C). The Bureau of Trade Administration shall be responsible for overseeing and enforcing all trade laws and agreements of which the United States is a party.

(b)(1) There is established within the Bureau of Trade Administration the—

(A) Export Administration; and

(B) Import Administration.

(2) Each administration established under paragraph (1) (A) and (B) shall be administered by an Assistant Secretary who shall be appointed by the President, by and with the consent of the Senate.

PART C—OFFICERS

DEPUTY SECRETARY

SEC. 221. (a) There shall be in the Department a Deputy Secretary of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Deputy Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Deputy Secretary shall act for and exercise the functions of the Secretary until the absence or disability of the Secretary no longer exists or a successor to the Secretary has been appointed by the President and confirmed by the Senate.

TRADE REPRESENTATIVE

SEC. 222. There shall be in the Department a Trade Representative, who shall be appointed by the President, by and with the advice and consent of the Senate. The Trade Representative shall have the rank and status of Ambassador and shall represent the United States in all trade negotiations on behalf of the Secretary of Trade.

UNDER SECRETARIES

SEC. 223. (a) There shall be in the Department three Under Secretaries of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Each Under Secretary of Trade shall perform such functions as the Secretary may prescribe.

ASSISTANT SECRETARIES

SEC. 224. (a) There shall be in the Department six Assistant Secretaries of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Each Assistant Secretary of Trade shall perform such functions as the Secretary may prescribe.

GENERAL COUNSEL

SEC. 225. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the Secretary concerning the activities, programs, and policies of the Department.

INSPECTOR GENERAL

SEC. 226. There shall be in the Department an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 271(h) of this Act.

REPRESENTATIVE TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

SEC. 227. There shall be in the Department a Permanent Representative to the General Agreement on Tariffs and Trade, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary.

PART D—TRANSFERS TO THE DEPARTMENT

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 231. There are transferred to the Secretary all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President and all functions of any officer or employee of such Office.

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 232. Except for functions transferred by titles III, IV, V, and VI, there are transferred to the Secretary—

(1) all functions of the Secretary of Commerce;

(2) all functions of the Department of Commerce; and

(3) all functions of, and all functions performed under the direction of, the following officers and employees of the Department of Commerce:

(A) the Under Secretary of Commerce for International Trade, the Director General of the United States and Foreign Commercial Services, the Under Secretary of Commerce for Travel and Tourism and the Assistant Secretary of Commerce for Tourism Marketing;

(B) the Under Secretary of Commerce for Economic Affairs, the Assistant Secretary of Commerce for International Economic Policy, the Assistant Secretary of Commerce for Trade Development, the Director of the Bureau of Economic Analysis of the Department of Commerce, and the Chief Economist of the Department of Commerce; and

(C) the Under Secretary for Export Administration of the Department of Commerce and the Assistant Secretary for Import Administration of the Department of Commerce.

TRANSFER OF THE EXPORT-IMPORT BANK

SEC. 233. (a)(1) There are transferred to the Secretary all functions of the Secretary of Commerce relating to the Export-Import Bank of the United States.

(2) The Export-Import Bank of the United States is transferred to the Department of Trade.

(b) Section 3(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(b)) is amended to read as follows:

"(b) There shall be a President of the Export-Import Bank of the United States who shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve as chief executive officer of the Bank. There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the Office of the President of the Bank, and who shall at other times perform such functions as the President of the Bank may from time to time prescribe.".

(c) Section 3(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as follows:

"(c)(1) There shall be a Board of Directors of the Bank consisting of the Under Secretary of the Bureau of Export Promotion of the Department of Trade (who shall serve as Chairman), the President of the Export-Import Bank of the United States (who shall serve as Vice Chairman), the President of the Overseas Private Investment Corporation, and the Director General of the United States and Foreign Commercial Service.".

(d) Section 2301(h) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is amended to read as follows:

"(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The Commercial Service shall provide, at its district offices in the United States, such services as the Under Secretary of Trade for Export Promotion determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank.".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 234. (a) There are transferred to the Secretary all functions of the Director of the United States International Development Cooperation Agency relating to the Overseas Private Investment Corporation.

(b) The second and third sentences of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) are amended to read as follows: "The Under Secretary of the Bureau of Export Promotion of the Department of Trade shall be the Chairman of the Board. The Administrator of the Agency for International Development, the President of the Overseas Private Investment Corporation (who shall serve as Vice Chairman), and the Director General of the United States Foreign and Commercial Service shall serve on the Board.".

TRADE AND DEVELOPMENT AGENCY

SEC. 235. There are transferred to the Secretary all functions of the Director of the United States International Development Agency relating to the Trade and Development Agency. There are transferred to the Department all functions of the Trade and Development Program.

BUREAU OF PRIVATE ENTERPRISE

SEC. 236. There are transferred to the United States and Foreign Commercial Service all functions of the Bureau of Private Enterprise of the Agency for International Development.

PART E—ADMINISTRATIVE PROVISIONS

PERSONNEL PROVISIONS

SEC. 241. (a) The Secretary may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS–15 of the General Service, and in the Senior Executive Service, of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this Act and which were assigned and filled on the day before the effective date of this Act.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day before the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at a grade level above GS–15 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this Act.

(c) The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum rate of pay for a position at a grade level above GS–15 of the General Schedule under section 5332 of such title. The Secretary may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(e) In order to assure United States representation in trade matters at a level commensurate with the level of representation maintained by industrial nations which are major trade competitors of the United States, the Secretary of State shall classify certain positions at Foreign Service posts as commercial minister positions and shall assign members of the Foreign Service performing functions of the Department of Trade, with the concurrence of the Secretary of Trade, to such positions in nations which are major trade competitors of the United States. The Secretary of State shall obtain and use the recommendations of the Secretary of Trade with respect to the number of positions to be so classified under this subsection.

DELEGATION AND ASSIGNMENT

SEC. 242. Except where otherwise expressly prohibited by law or otherwise provided by this Act, the Secretary may delegate any of the functions transferred to the Secretary by this Act and any function transferred or granted to the Secretary after the effective date of this Act to such officers and employees of the Department as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

SUCCESSION

SEC. 243. (a) Subject to the authority of the President, and except as provided in section 221(b), the Secretary shall prescribe the order by which officers of the Department who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the Secretary or any other officer of the Department appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the Secretary or such other officer, or in the event of a vacancy in the office of the Secretary or such other officer.

(b) Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the Secretary or another officer of the Department pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the Secretary or such other officer no longer exists or a successor to the Secretary or such other officer has been appointed by the President and confirmed by the Senate.

REORGANIZATION

SEC. 244. (a) Subject to subsections (b) and (c), the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities in the Department as may be necessary or appropriate.

(b) Except as provided in subsection (c), the Secretary may establish, consolidate, alter, or discontinue any organizational entity in the Department or allocate or reallocate any function of an officer or employee of the Department upon the expiration of a period of sixty days after the receipt by the Committee on Finance and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives of notice by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this section and the facts and circumstances relied upon in support of such proposed action.

RULES

SEC. 245. The Secretary is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

WORKING CAPITAL FUND

SEC. 246. (a) The Secretary is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space, central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) The capital of the fund shall consist of any appropriations made for the purpose of

providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the Secretary determines will be performed.

FUNDS TRANSFER

SEC. 247. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased by more than 10 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefore.

CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS

SEC. 248. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the Secretary considers necessary or appropriate to carry out the functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, the authority to enter into contracts or to make payments under this title shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 252.

PUBLICATIONS

SEC. 249. Subject to such procedures of the Director of the Office of Management and Budget may prescribe, the Secretary may disseminate in the form of reports or publications such information as the Secretary considers appropriate.

USE OF FACILITIES

SEC. 250. (a) With their consent, the Secretary, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual;

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; or

(4) any foreign government,

in carrying out any function of the Secretary or the Department.

(b) The Secretary, under terms, at rates, and for periods that the Secretary considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or by individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the Secretary. The Secretary may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

FIELD OFFICES

SEC. 251. (a) Subject to subsection (b), the Secretary may establish, alter, consolidate, maintain, or discontinue State, regional, district, local, or other field offices as the Secretary finds necessary or appropriate to perform any function of the Secretary or the Department.

(b) The Secretary may establish, alter, consolidate, maintain, or discontinue State, regional, district, local, or other field offices under subsection (a) upon the expiration of a period of sixty days after the receipt by the Committee on Finance and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives of notice by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this section and the facts and circumstances relied upon in support of such proposed action.

(c) Within one year after the effective date of this Act, the Secretary and the Administrator of the Small Business Administration shall prepare and transmit to the President and to Congress a joint report containing recommendations for improving the competitiveness of United States business through—

(1) enhanced cooperation between the Small Business Administration and the United States and Foreign Commercial Service;

(2) the utilization of Small Business Administration regional offices by the United States and Foreign Commercial Service;

(3) increased efforts to assist small- and medium-size firms to enter the export market through the facilities of the United States and Foreign Commercial Service; and

(4) consolidation of the Small Business Administration within the United States and Foreign Commercial Service or the Department of Trade.

GIFTS AND BEQUESTS

SEC. 252. (a) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for use of the United States.

(c) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the Secretary pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

SEAL OF DEPARTMENT

SEC. 253. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 254. The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a written report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

PROFESSIONAL TRADE SERVICE CORPS

SEC. 255. Within 180 days after the effective date of this Act, the Secretary shall prepare and transmit to the President and the Congress a report containing recommendations for the establishment of a Professional Trade Service Corps designed to attract and retain highly qualified, experienced, and motivated professionals to administer the trade policies and activities of the United States. The system shall contain provisions for—

(1) the advancement and retention of personnel on a competitive basis;

(2) the designation of senior positions in such Federal agencies in order that personnel employed in such agencies may advance in careers relating to international trade; and

(3) the transfer of personnel between the system and the Foreign Service personnel system in order that personnel employed in such systems may be employed in foreign and domestic service.

NATIONAL TRADE DATA BANK

SEC. 256. Within 180 days after the effective date of this Act, the Secretary shall prepare and transmit to the President and the Congress a report containing recommendations for enhancing the Government's foreign trade and economic data collection and dissemination activities. The report shall include—

(1) recommendations for increasing the capacity of the National Trade Data Bank established by the Omnibus Trade and Competitiveness Act of 1988;

(2) findings by the Interagency Trade Data Advisory Committee for expanding the National Trade Data Bank consistent with the needs of its users;

(3) recommendations on including within the National Trade Data Bank economic information collected by United States intelligence agencies; and

(4) suggestions for the overall improvement and coordination of the United States Government's trade and economic data collection and dissemination activities.

PART F—RELATED AGENCIES

INTERAGENCY TRADE ORGANIZATION

SEC. 261. Section 242(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)(3)) is amended to read as follows:

"(3)(A) The interagency organization established under subsection (a) shall be composed of—

"(i) the Secretary of Trade, who shall be Chairman,

"(ii) the Secretary of Agriculture,

"(iii) the Secretary of the Treasury,

"(iv) the Secretary of Labor,

"(v) the Secretary of State, and

"(vi) the representatives of such other departments and agencies as the Secretary of Trade shall designate.

"(B) The Secretary of Trade may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.".

NATIONAL SECURITY COUNCIL

SEC. 262. The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

"(5) the Secretary of Trade;".

INTERNATIONAL MONETARY FUND

SEC. 263. Section 3 of the Bretton Woods Agreement Act is amended by adding at the end thereof the following new subsection:

"(e) The United States executive director of the Fund shall consult with the Secretary of Trade with respect to matters under consideration by the Fund which relate to trade.".

PART G—CONFORMING PROVISIONS

AMENDMENTS

SEC. 271. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Commerce," and inserting in lieu thereof "Secretary of Trade,".

(b) Section 101 of title 5, United States Code, is amended by striking out the item relating to the Department of Commerce and inserting in lieu thereof the following:

"The Department of Trade.".

(c) Section 5312 of such title is amended—

(1) by striking out the items relating to the Secretary of Commerce and the United States Trade Representative; and

(2) by adding at the end thereof the following:

"Secretary of Trade.".

(d)(1) Section 2(b) of Reorganization Plan No. 3 of 1979 is amended by striking out paragraph (1) and by striking out "(2)".

(2) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Secretary, Department of Trade.".

(e) Section 5314 of such title is amended—

(1) by striking out the item relating to the Under Secretary of Commerce, the Under Secretary of Commerce for Economic Affairs, and the Under Secretary of Commerce for Travel and Tourism;

(2) by striking out the item relating to the Deputy United States Trade Representatives; and

(3) by adding at the end thereof the following:

"Under Secretaries of Trade (3).

"Deputy Secretary of Trade.

"Chief Trade Negotiator, Department of Trade.

"Permanent Representative to the General Agreement on Tariffs and Trade, Department of Trade.".

(f) Section 5315 of such title is amended—

(1) by striking out the item relating to the Assistant Secretaries of Commerce;

(2) by striking out the item relating to the General Counsel of the Department of Commerce; and

(3) by adding at the end thereof the following:

"Assistant Secretaries of Trade (6).

"General Counsel, Department of Trade.

"President of the Export-Import Bank of the United States.

"President of the Overseas Private Investment Corporation.".

(g) Section 5316 of such title is amended—

(1) by striking out the item relating to Commissioner of Patents, Department of Commerce;

(2) by striking out the item relating to the National Export Expansion Coordinator, Department of Commerce;

(3) by striking out the item relating to the Director, United States Travel Service, Department of Commerce;

(4) by striking out the item relating to the Inspector General, Department of Commerce;

(5) by striking out the item relating to the Director, National Bureau of Standards, Department of Commerce; and

(6) by adding at the end thereof the following:

"Inspector General, Department of Trade.".

(h) The Inspector General Act of 1978 is amended—

(1) in subsection 9(a)(1)—

(A) by striking out subparagraph (B);

(B) by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (I) the following:

"(H) of the Department of Trade, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the Secretary of Trade by section 232 of the Trade Reorganization Act of 1992;";

(2) by striking out "Commerce," each place it appears in section 11; and

(3) by inserting "Trade," after "Interior," each place it appears in such section.

(i)(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

"SEC. 141. FUNCTIONS OF THE SECRETARY OF TRADE.

"The Secretary of Trade shall—

"(1) be the chief representative of the United States for each trade negotiation under this title or chapter 1 of title III of this Act, or subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988;

"(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Omnibus Trade and Competitiveness Act of 1988, the Trade Expansion Act of 1962, and section 350 of the Tariff Act of 1930;

"(3) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs; and

"(4) be responsible for making reports to Congress with respect to the matters set forth in clauses (1) and (2).".

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking out the items relating to chapter 4 and section 141 and inserting in lieu thereof the following:

"CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

"Sec. 141. Functions of the Secretary of Trade.".

(j) The Foreign Service Act of 1980 is amended by striking out paragraph (3) of section 202(a) (22 U.S.C. 3922(a)) and inserting in lieu thereof the following:

"(3) The Secretary of Trade may utilize the Foreign Service personnel system in accordance with this Act—

"(A) with respect to the personnel performing functions—

"(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

"(ii) which were subsequently transferred to the Secretary of Trade by section 232 of the Trade Reorganization Act of 1992; and

"(B) with respect to other personnel of the Department of Trade to the extent the President determines to be necessary in order to enable the Department of Trade to carry out functions which require service abroad.".

(k)(1) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended by striking out "Commerce" and inserting in lieu thereof "Trade".

(2) Section 202(a)(13) of such Act (22 U.S.C. 2123(a)(13)) is amended by striking out "Commerce" and inserting in lieu thereof "Trade".

(3) Section 301 of such Act (22 U.S.C. 2124) is amended to read as follows:

"SEC. 301. All duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Trade for the United States and Foreign Commercial Service.".

(4) Section 302(b)(1) of such Act (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking out "Commerce" in subparagraph (A) and inserting in lieu thereof "Trade";

(B) by striking out "Under Secretary" and inserting in lieu thereof "Assistant Secretary of Trade" in subparagraph (B); and

(C) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) an individual designated by the Secretary of Trade from the Department of Trade;".

(5) Section 303(f) of such Act (22 U.S.C. 2124b(f)) is amended by striking out "and shall advise the Assistant Secretary of Trade for the United States and Foreign Commercial Service with respect to the preparation of the marketing plan under section 202(a)(15)".

REPEALS

SEC. 272. (a)(1) The first section of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1501), is repealed.

(2) The first section of the Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (15 U.S.C. 1501), is amended by striking out beginning with "and the Department of Commerce and Labor" through "accordingly".

(b) Subsection (a) of the first section of the Act entitled "An Act to authorize an Under Secretary of Commerce for Economic Affairs", approved June 16, 1982 (96 Stat. 115; 15 U.S.C. 1503a), is repealed.

(c) The Act entitled "An Act to provide for the appointment of one additional Assistant Secretary of Commerce, and for other purposes", approved July 15, 1947 (15 U.S.C. 1505), is repealed.

(d) The first sentence of section 304 of the Department of Commerce Appropriation Act, 1955 (15 U.S.C. 1506), is repealed.

(e) The Act entitled "An Act to authorize an additional Assistant Secretary of Commerce", approved February 16, 1962 (15 U.S.C. 1507), is repealed.

(f) Subsection (a) of section 9 of the Maritime Appropriation Authorization Act for Fiscal Year 1978 (15 U.S.C. 1507b), is repealed.

(g)(1) The first section of the Act of March 18, 1904 (33 Stat. 135, chapter 716; 15 U.S.C. 1508), is amended by striking out the paragraph relating to the Office of the Solicitor of the Department of Commerce and Labor.

(2) Section 2 of the Act of July 17, 1952 (66 Stat. 758, chapter 932; 15 U.S.C. 1508), is repealed.

(h)(1) Sections 4 and 12 of the Act entitled "An Act to Establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1511), are repealed.

(2) The first section of the Act of August 23, 1912 (37 Stat. 407, chapter 350; 15 U.S.C. 1511), is amended by striking out the paragraph relating to the Bureau of Foreign and Domestic Commerce.

(3) The first section of the Act of January 5, 1923 (42 Stat. 1109, chapter 23; 15 U.S.C. 1511), is repealed.

(4) The first section of the Act of May 27, 1936 (49 Stat. 1380, chapter 463; 15 U.S.C. 1511), is repealed.

(i) Section 8 of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1519), is repealed.

(j) Title III of the Act entitled "An Act making appropriations for the Departments of State, Justice, and Commerce for the fiscal year ending June 30, 1945, and for other purposes", approved June 28, 1944 (15 U.S.C. 1521), is amended by striking out the paragraph relating to the working capital fund of the Department of Commerce.

(k) Sections 1, 2, and 3 of Public Law 88-611 (15 U.S.C. 1522, 1523, and 1524) are repealed.

TITLE III—ESTABLISHMENT OF TECHNOLOGY ADMINISTRATION AS INDEPENDENT AGENCY

PART A—ESTABLISHMENT OF TECHNOLOGY ADMINISTRATION

SHORT TITLE

SEC. 301. This title may be cited as the "Technology Administration Act of 1992".

FINDINGS

SEC. 302. The Congress finds that the establishment of an independent agency for technology programs shall—

(1) provide a focus for technological innovation for industrial and commercial purposes;

(2) facilitate the development of a single agency and a unified means for research and development to enhance the United States competitive position in the global economy; and

(3) aid in the establishment of a coherent program to promote civilian research and development and the commercialization of new technologies.

DEFINITIONS

SEC. 303. For the purposes of this title—

(1) the term "Administration" means the Technology Administration established under section 304; and

(2) the term "Administrator" means the Administrator of the Technology Administration.

ESTABLISHMENT

SEC. 304. (a) There is established the Technology Administration which shall be an independent establishment as defined under section 104 of title 5, United States Code. The Administration shall be administered by the Administrator of the Technology Administration who shall be appointed by the President, by and with the advice and consent of the Senate. The Administration shall be composed of—

(1) the National Institute of Standards and Technology established under subsection (c);

(2) the National Technical Information Service established under subsection (d);

(3) the National Telecommunications Institute established under subsection (e); and

(4) the Patent and Trademark Office established under subsection (f).

(b) There are transferred to the Administration and the Administrator all functions of the Technology Administration of the Department of Commerce and the Under Secretary for Technology and—

(1) all functions performed by the National Institute of Standards and Technology of the Department of Commerce and the Director of the National Institute of Standards and Technology of the Department of Commerce;

(2) all functions performed by the National Technical Information Service of the Department of Commerce and the Director of the National Technical Information Service of the Department of Commerce;

(3) all functions performed by the National Telecommunications and Information Administration of the Department of Commerce and the Assistant Secretary for Communications and Information of the Department of Commerce; and

(4) all functions performed by the Patent and Trademark Office of the Department of Commerce and the Assistant Secretary and Commissioner of Patents and Trademarks of the Department of Commerce.

(c) There is established in the Administration the National Institute of Standards and Technology. The National Institute of Standards and Technology shall be administered by the Director of the National Institute of Standards and Technology appointed by the President, by and with the consent of the Senate. The Director shall perform all functions (other than administrative and support functions) transferred to the Administrator under subsection (a)(1).

(d) There is established the National Technical Information Service within the Administration. The National Technical Information Service shall be headed by the Director of the National Technical Information Service appointed by the President, by and with the consent of the Senate. The Director of the National Technical Information Service, shall perform all functions (other than administrative and support functions) transferred to the Administrator under subsection (a)(2).

(e) There is established in the Administration the National Telecommunications Institute. The National Telecommunications Institute shall be administered by the Director of the National Telecommunications Institute appointed by the President, by and with the consent of the Senate. The Director shall perform all functions (other than administrative and support functions) transferred to the Administrator under subsection (a)(3).

(f) There is established in the Administration the Patent and Trademark Office. The Patent and Trademark Office shall be administered by the Commissioner for Patents and Trademarks appointed by the President, by and with the advice and consent of the Senate. The Administrator through the Commissioner for Patents and Trademarks, shall perform all functions (other than administrative and support functions) transferred to the Administrator under subsection (a)(4).

FUNCTIONS OF THE ADMINISTRATOR

SEC. 305. In addition to the functions transferred under section 304 or functions delegated by the President, the Administrator shall—

(1) exercise responsibility, through the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other policies, for the Federal Government's role in encouraging technological innovation for industrial and commercial purposes;

(2) consult and coordinate technology policy with the Office of Science and Technology Policy of the Executive Office of the President;

(3) use Federal resources in a manner consistent with the needs and demands of the commercial marketplace to ensure the competitiveness of United States industries;

(4) accelerate technology transfer by collecting, condensing, interpreting, synthesizing, adding value, and diffusing to industry innovative technology, research advancements, and ideas for technology, products, and manufacturing processes that are developed throughout the world;

(5) improve industry manufacturing and commercialization capabilities by creating and maintaining a distributed national network of expertise in manufacturing skills and commercialization methods; and

(6) facilitate the transfer of knowledge to startup companies and other businesses requesting assistance to strengthen manufacturing skills.

CONFORMING AMENDMENTS

SEC. 306. (a) The provisions of subchapter II of chapter 53 of title 5, United States Code (as amended by section 271 of this Act) are further amended—

(1) in section 5313 by adding at the end thereof:

"Administrator of the Technology Administration.";

(2) in section 5314 by striking out the item relating to the Under Secretary of Commerce for Technology and adding at the end thereof:

"Director of the National Technical Information Service of the Technology Administration.

"Director of the National Telecommunications Institute of the Technology Administration.

"Commissioner of the Patent and Trademark Office of the Technology Administration.

"Director of the National Institute of Standards and Technology of the Technology Administration."; and

(3) in section 5316 by striking out the items relating to the Commissioner of Patents, Department of Commerce, the Deputy Commissioner of Patents and Trademarks, the Assistant Commissioner of Patents, and the Assistant Commissioner for Trademarks.

(b) The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) in section 4 by striking out paragraphs (1) through (3) and inserting in lieu thereof:

"(1) 'Administration' means the Technology Administration.

"(2) 'Administrator' means the Administrator of the Technology Administration.";

(2) in section 5—

(A) by striking out subsections (a) and (b);

(B) in subsection (d) by striking out "subsection (c)" and inserting in lieu thereof "subsection (a)"; and

(C) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

(3) by striking out "Office" each place it appears and inserting "Administration" in each such place;

(4) by striking out "Secretary" each place it appears and inserting "Administrator" in each such place;

(5) by striking out "and the Under Secretary" each place it appears; and

(6) by striking out "Department of Commerce" each place it appears and inserting "Foundation" in each such place.

(c) Section 212 of the National Technical Information Act of 1988 (15 U.S.C. 3704b) is amended—

(1) in subsection (a)(1) by striking out "The Secretary of Commerce, acting through the Director of the National Technical Information Service" and inserting in lieu thereof "The Administrator of the Technology Administration";

(2) in subsection (f)(1) by striking out "Secretary of Commerce and"; and

(3) by striking out "Secretary of Commerce" and "Secretary" each place it appears and inserting "Administrator" in each such place.

PART B—ADMINISTRATIVE PROVISIONS

RULES

SEC. 321. In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations—

(1) shall be governed by the provisions of chapter 5 of title 5, United States Code; and

(2) shall be after notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, authorities, councils, and other interested public and private parties.

DELEGATION

SEC. 322. Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

PERSONNEL AND SERVICES

SEC. 323. (a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 304, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency.

(e) The Administrator is authorized to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in carrying out the functions of the Administration.

(f)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

CONTRACTS

SEC. 324. The Administrator is authorized, without regard to the provisions of section 3324 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

USE OF FACILITIES

SEC. 325. With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

SERVICE CHARGES

SEC. 326. (a) Notwithstanding any other provision of law, the Administrator may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance and may change and abolish such fees and commissions. Prior to establishing, changing, or abolishing any schedule of fees or commissions under this section, the Administrator may submit such schedule to the Congress.

(b) The Administrator is authorized to require a deposit before the Administrator provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) Moneys received under this section shall be deposited with the Treasury in a special account for use by the Administrator and are authorized to be appropriated and made available until expended.

(d) In establishing reasonable fees or commissions under this section, the Administrator may take into consideration—

(1) the actual costs which will be incurred in providing items, information, services, or assistance;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public interest rather than to exclusive benefits for the applicant;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the Administrator considers relevant.

(e) In any case in which the Administrator determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the Administrator, upon application or otherwise, may cause a refund to be made from applicable funds.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 327. (a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) laboratories;

(B) research and testing sites and facilities;

(C) quarters and related accommodations for employees and dependents of employees of the Administration; and

(D) such other real and personal property (including patents), or any interest therein within and outside the continental United States;

(2) to lease to others such real and personal property; and

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment therefor.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

FACILITIES AT REMOTE LOCATIONS

SEC. 328. (a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of such subsection shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

COPYRIGHTS AND PATENTS

SEC. 329. The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions of the Administrator or the Administration:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before an action is brought, for past infringement of patents of copyrights.

GIFTS AND BEQUESTS

SEC. 330. The Administrator is authorized to accept, hold, administer and utilize gifts, donations, or bequests of property, real or personal, tangible or intangible, and contributions of money for purposes of aiding or facilitating the work of the Administrator or the Administration. For the purposes of Federal income, estate, and gift taxes, and State taxes, property accepted under this subsection shall be considered a gift or bequest to the United States.

TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES

SEC. 331. The Administrator is authorized to accept transfers from other Federal agencies of funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator after the date of enactment of this Act.

WORKING CAPITAL FUND

SEC. 332. (a) The Administrator is authorized to establish for the Administration a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Administrator shall find to be desirable in the interest of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Administration and its components;

(2) central messenger, mail, and telephone service and other communications service;

(3) office space, central services for document reproduction and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Administrator may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Administration, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the Administrator determines will be performed.

SEAL OF ADMINISTRATION

SEC. 333. The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 334. (a) As soon as is practicable after the close of each fiscal year, the Administrator shall submit to the President a report on the activities of the Administration during the preceding fiscal year. The President shall transmit each such report to the Speaker of the House of Representatives and the President pro tempore of the Senate not later than December 31 of each year.

(b) Each Federal agency shall, without charge, provide the Administrator with such data and information as the Administrator may request to carry out this section. Each Federal agency shall, on a cost reimbursable basis, provide the Administrator with such services and personnel as the Administrator may request to carry out this section.

(c)(1) The Administrator is authorized to include in the report required by subsection (a) for each fiscal year a report on any program or activity carried out by the Administrator during such fiscal year.

(2) Notwithstanding any other provision of law, the inclusion by the Administrator in the report required by subsection (a) for any fiscal year of a report on any program or activity carried out by the Administrator during such fiscal year shall be considered compliance with any requirement established by law or regulation that the Administrator prepare a report with respect to the administration of such program or activity during all or part of such fiscal year. If the Administrator includes in the report required under subsection (a) for any fiscal year a report on any program or activity, the Administrator shall include in such report all items required to be included in the report with respect to such program or activity required to be prepared by law or regulation.

STATUS OF ADMINISTRATION UNDER CERTAIN LAWS

SEC. 335. For purposes of section 552b of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

TITLE IV—ESTABLISHMENT OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AS AN INDEPENDENT AGENCY

PART A—ESTABLISHMENT OF ADMINISTRATION

SHORT TITLE

SEC. 401. This title may be cited as the "National Oceanic and Atmospheric Administration Act of 1992".

FINDINGS

SEC. 402. The Congress finds that the establishment of an independent agency for ocean, coastal, and atmospheric programs will—

(1) provide a focus for ocean, coastal, and atmospheric activities;

(2) facilitate the development of a single agency and a unified means for research concerning ocean, coastal, and atmospheric programs; and

(3) aid in the establishment of a coherent program to promote understanding, assessment, development, management, conservation, and protection of ocean, coastal, and atmospheric environments.

DEFINITIONS

SEC. 403. For the purposes of this title—

(1) the term "Administration" means the National Oceanic and Atmospheric Administration established under section 404; and

(2) the term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

ESTABLISHMENT

SEC. 404. There is established as an independent establishment of the Government the National Oceanic and Atmospheric Administration. The Administration shall succeed the National Oceanic and Atmospheric Administration of the Department of Commerce in existence on the day before the effective date of this Act.

OFFICERS

SEC. 405. (a) The Administration shall be administered by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator during the absence or disability of the Administrator, or in the event of a vacancy in the office of the Administrator.

(c) There shall be in the Administration an Associate Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Associate Administrator shall perform such functions as the Administrator shall prescribe. The Associate Administrator shall act for and perform the functions of the Administrator during the absence or disability of the Administrator and the Deputy Administrator or in the event of a vacancy in both of those offices.

(d) There shall be in the Administration not less than five and not more than seven Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order

in which the Assistant Administrators shall act for and perform the functions of the Administrator during the absence or disability of the Administrator, the Deputy Administrator, and the Associate Administrator, or in the event of vacancies in all of those offices.

(e) There shall be in the Administration a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration.

(f)(1) There shall be in the Administration a Commissioned Officer Corps, which shall be the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970. Members of the Corps, including those appointed after the effective date of this Act, shall be entitled to all rights, privileges, and benefits available under any law to commissioned officers of the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration of the Department of Commerce on the day before the effective date of this Act.

(2) All laws and regulations applicable to commissioned officers of the National Oceanic and Atmospheric Administration of the Department of Commerce on the day before the effective date of this Act shall be applicable to commissioned officers of the Administration.

(g) The Secretary of the Navy may detail to the Administrator, on an additional-duty basis, a Navy flag officer of the rank of rear admiral, who shall serve and be designated as the Naval Deputy to the Administrator. The Naval Deputy shall—

(1) act as a liaison between the Administrator and the Secretary of the Navy in order to avoid duplication of Federal oceanographic activities;

(2) act to maintain a close relationship between the Administration and the Navy in research and development; and

(3) ensure that national security considerations are addressed by the Administrator in formulating policies.

(h)(1) There shall be in the Administration a Director of the national sea grant college program, who shall be appointed by the Administrator and who shall be a qualified individual who has knowledge or expertise in fields relating to ocean and coastal resources and appropriate administrative experience. The Director of the national sea grant college program shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be compensated at a rate not in excess of the maximum rate for a position above GS–15 of the General Schedule.

(2) The Director of the national sea grant college program shall administer the national sea grant college program subject to the supervision of the Administrator and in accordance with functions prescribed by law or by the Administrator.

TRANSFER OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FROM THE DEPARTMENT OF COMMERCE

SEC. 406. (a)(1) The National Oceanic and Atmospheric Administration of the Department of Commerce is transferred to the Administration.

(2) All functions of the Secretary of Commerce or the Department of Commerce with respect to or being administered through the National Oceanic and Atmospheric Administration of the Department of Commerce or the Administrator of such Administration on the day before the effective date of this Act are transferred to the Administrator appointed under section 405(a).

(3) All functions of the National Oceanic and Atmospheric Administration of the Department of Commerce or the Administrator of such Administration are transferred to the Administrator appointed under section 405(a).

PART B—ADMINISTRATIVE PROVISIONS

RULES

SEC. 411. In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations—

(1) shall be governed by the provisions of chapter 5 of title 5, United States Code; and

(2) shall be after notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, authorities, councils, and other interested public and private parties.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

PERSONNEL AND SERVICES

SEC. 413. (a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 305, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency. With the approval of the President, the Administrator is authorized to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the Secretary of the Army, the Navy, or the Air Force, as the case may be, to assist the Administrator in carrying out the functions of the Administrator. Members of the Army, Navy, Air Force, or Marine Corps detailed to carry out functions under this section shall carry out such functions to the same extent as that to which such members might be lawfully assigned in the Department of Defense.

(e) The Administrator is authorized to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in carrying out the functions of the Administration.

(f)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

CONTRACTS

SEC. 414. The Administrator is authorized, without regard to the provisions of section 3324 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

USE OF FACILITIES

SEC. 415. With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

SERVICE CHARGES

SEC. 416. (a) Notwithstanding any other provision of law, the Administrator may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance and may change and abolish such fees and commissions. Prior to establishing, changing, or abolishing any schedule of fees or commissions under this section, the Administrator may submit such schedule to the Congress.

(b) The Administrator is authorized to require a deposit before the Administrator provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) Moneys received under this section shall be deposited with the Treasury in a

special account for use by the Administrator and are authorized to be appropriated and made available until expended.

(d) In establishing reasonable fees or commissions under this section, the Administrator may take into consideration—

(1) the actual costs which will be incurred in providing items, information, services, or assistance;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public interest rather than to exclusive benefits for the applicant;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the Administrator considers relevant.

(e) In any case in which the Administrator determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the Administrator, upon application or otherwise, may cause a refund to be made from applicable funds.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 417. (a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise) construct, improve, repair, operate, and maintain—

(A) laboratories;

(B) research and testing sites and facilities;

(C) quarters and related accommodations for employees and dependents of employees of the Administration; and

(D) such other real and personal property (including patents), or any interest therein within and outside the continental United States,

as the Administrator considers necessary;

(2) to lease to others such real and personal property; and

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment therefor.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

FACILITIES AT REMOTE LOCATIONS

SEC. 418. (a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of such subsection shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

COPYRIGHTS AND PATENTS

SEC. 419. The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions of the Administrator or the Administration:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before an action is brought, for past infringement of patents of copyrights.

GIFTS AND BEQUESTS

SEC. 420. The Administrator is authorized to accept, hold, administer and utilize gifts, donations, or bequests of property, real or personal, tangible or intangible, and contributions of money for purposes of aiding or facilitating the work of the Administrator or the Administration. For the purposes of Federal income, estate, and gift taxes, and State taxes, property accepted under this subsection shall be considered a gift or bequest to the United States.

TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES

SEC. 421. The Administrator is authorized to accept transfers from other Federal agencies of funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator after the date of enactment of this Act.

WORKING CAPITAL FUND

SEC. 422. (a) The Administrator is authorized to establish for the Administration a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Administrator shall find to be desirable in the interest of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Administration and its components;

(2) central messenger, mail, and telephone service and other communications service;

(3) office space, central services for document reproduction and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Administrator may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Administration, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the Administrator determines will be performed.

SEAL OF ADMINISTRATION

SEC. 423. The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 424. (a) As soon as is practicable after the close of each fiscal year, the Administrator shall submit to the President a report on the activities of the Administration during the preceding fiscal year. The President shall transmit each such report to the Speaker of the House of Representatives and the President pro tempore of the Senate not later than December 31 of each year.

(b) Each Federal agency shall, without charge, provide the Administrator with such data and information as the Administrator may request to carry out this section. Each Federal agency shall, on a cost reimbursable basis, provide the Administrator with such services and personnel as the Administrator may request to carry out this section.

(c)(1) The Administrator is authorized to include in the report required by subsection (a) for each fiscal year a report on any program or activity carried out by the Administrator during such fiscal year.

(2) Notwithstanding any other provision of law, the inclusion by the Administrator in the report required by subsection (a) for any fiscal year of a report on any program or activity carried out by the Administrator during such fiscal year shall be considered compliance with any requirement established by law or regulation that the Administrator prepare a report with respect to the administration of such program or activity during all or part of such fiscal year. If the Administrator includes in the report required under subsection (a) for any fiscal year a report on any program or activity, the Administrator shall include in such report all items required to be included in the report with respect to such program or activity required to be prepared by law or regulation.

STATUS OF ADMINISTRATION UNDER CERTAIN LAWS

SEC. 425. For purposes of section 552b of title 5, United States Code, the Administra-

tion is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

SALARY OF ASSISTANT ADMINISTRATORS

SEC. 426. Section 5316 of title 5, United States Code (as amended by section 271(g) of this Act) is further amended—

(1) by striking out the items relating to the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, and the Assistant Administrators, National Oceanic and Atmospheric Administration; and

(2) by adding at the end thereof the following:

"Assistant Administrators, National Oceanic and Atmospheric Administration.".

COORDINATION OF ENVIRONMENTAL POLICY

SEC. 427. The Administration shall consult and coordinate environmental policy with the Council on Environmental Quality of the Executive Office of the President.

TITLE V—TRANSFERS TO OTHER FEDERAL AGENCIES

PART A—MINORITY BUSINESS DEVELOPMENT AGENCY

TRANSFERS TO THE SMALL BUSINESS ADMINISTRATION

SEC. 501. (a)(1) There are transferred to the Administrator of the Small Business Administration all functions of the Secretary of Commerce or the Department of Commerce with respect to or being administered through the Minority Business Development Agency of the Department of Commerce or the Director of such Agency.

(2) There are transferred to the Administrator of the Small Business Administration all functions of the Minority Business Development Agency of the Department of Commerce and the Director of such Agency.

(b) The Minority Business Development Agency of the Department of Commerce is transferred to the Small Business Administration.

ADMINISTRATIVE PROVISIONS RELATING TO THE MINORITY BUSINESS DEVELOPMENT AGENCY

SEC. 502. (a) The Minority Business Development Agency shall be a separate identifiable unit in the Small Business Administration.

(b) The Administrator of the Small Business Administration, through the Director of the Minority Business Development Agency, shall perform all functions (other than administrative and support functions) transferred to such Administrator by section 501.

CONFORMING AMENDMENTS RELATING TO THE MINORITY BUSINESS DEVELOPMENT AGENCY

SEC. 503. (a) Section 5316 of title 5, United States Code (as amended by this Act) is further amended by inserting after the item relating to the Associate Administrators of the Small Business Administration the following:

"Director, Minority Business Development Agency, Small Business Administration.".

(b) Section 9(a)(1)(T) of the Inspector General Act of 1978 (as redesignated by section 271(h)(3) of this Act) is amended to read as follows:

"(T) of the Small Business Administration—

"(i) the office of that agency referred to as the 'Office of Audits and Investigations'; and

"(ii) all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of such Department relating to the functions transferred to the Administrator of the Small Business Administration by section 501 of the Trade Reorganization Act of 1992; and".

PART B—TRANSFER OF THE BUREAU OF THE CENSUS TO THE DEPARTMENT OF LABOR

TRANSFERS

SEC. 511. (a) All functions of the Secretary of Commerce being administered through the individual holding the office of Director of the Census on the day before the effective date of this Act are transferred to the Director of the Census appointed under section 21 of title 13, United States Code, as amended by section 512(e) of this Act.

(b) All functions of the Secretary of Commerce with respect to the Bureau of the Census or the Director of the Census are transferred to the Secretary of Labor.

(c) The Bureau of the Census of the Department of Commerce is transferred to the Bureau of the Census of the Department of Labor established by section 3 of title 13, United States Code, as amended by section 512(d) of this Act.

(d) There are transferred to the Director of the Census appointed under section 21 of title 13, United States Code (as amended by section 512(e) of this Act) all functions of the Inspector General of the Department of Commerce or of the Office of the Inspector General of the Department of Commerce relating to the agency and functions transferred by subsections (a), (b), and (c) of this section.

ESTABLISHMENT WITHIN THE DEPARTMENT OF LABOR

SEC. 512. (a)(1) Section 4 of title 13, United States Code, is repealed.

(2) Sections 1, 2, and 3 of such title are redesignated as sections 2, 3, and 4, respectively.

(b) Title 13, United States Code, is amended by inserting before section 2 (as redesignated by subsection (a)(2) of this section) the following new section:

"§ 1. Purpose

"The purpose of this chapter is to establish the Bureau of the Census within the Department of Labor due to the importance of the functions of the Bureau in providing statistical information to all agencies of the United States Government and to the people of the United States.".

(c) Section 2 of such title (as redesignated by subsection (a)(2) of this section), is amended by striking out clause (2) and inserting in lieu thereof the following:

"(2) 'Director' means the Director of the Census appointed under section 21 of this title; and".

(d) Section 3 of such title (as redesignated by subsection (a)(2) of this section), is amended to read as follows:

"§ 3. Establishment

"There is established the Bureau of the Census within the Department of Labor. The Bureau shall be administered by the Director.".

(e) Section 21 of such title is amended to read as follows:

"§ 21. Director of the Census; powers and duties

"(a) The Bureau shall be headed by a Director of the Census, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director may prescribe such policies, standards, criteria, procedures, rules, and regulations as the Director finds necessary or appropriate to carry out the functions of the Director.

"(c) The Director may organize the Bureau as the Director finds necessary or appropriate.

"(d) Except as otherwise expressly provided by law, the Director may delegate any of the functions of the Director to such officers and employees of the Bureau as the Director may designate, and may authorize such successive redelegations of such functions as may be necessary or appropriate. A delegation of functions by the Director shall not relieve the Director of responsibility for the administration of such functions.

"(e) The Director is authorized to obtain the services of experts and consultants as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed $100 per day for individuals unless otherwise specified in an appropriation Act.

"(f) The Director is authorized to appoint, without regard to the classification and civil service laws, advisory committees to advise the Director with respect to any function of the Director or the Bureau.

"(g) The Director shall consult with interested Federal agencies with a view to obtaining their advice and assistance in carrying out the purposes of this title. Each Federal agency is authorized to furnish to the Director, upon request of the Director, any information or other data which the Director finds necessary to carry out his duties.

"(h) If authorized by the Director, officers and employees of the Bureau are empowered, while engaged in the performance of their duties, to administer oaths.".

(f) The table of sections for chapter 1 of title 13, United States Code, is amended—

(1) by redesignating the items relating to sections 1, 2, and 3 as the items relating to sections 2, 3, and 4, respectively; and

(2) by inserting before the item relating to section 2 (as redesignated by clause (1) of this subsection) the following new item:

"1. Purpose.".

(3) by inserting "powers and" before "duties" in the item relating to section 21.

(g) Title 13, United States Code, is amended by striking out "Department of Commerce" each place it appears and inserting in lieu thereof "Department of Labor".

REPORT TO THE PRESIDENT AND CONGRESS

SEC. 513. Within 180 days after the effective date of this Act, the Secretary of Labor shall prepare and transmit to the President and the Congress a report containing recommendations for streamlining or integrating the Bureau of the Census and the Bureau of Labor Statistics within the Department of Labor in order to improve the efficiency and effectiveness of the Government's statistical collection activities.

CONFORMING AMENDMENTS RELATING TO THE BUREAU OF THE CENSUS

SEC. 514. (a) Section 5314 of title 5, United States Code (as amended by this Act) is further amended by adding at the end thereof the following:

"Director of the Census.".

(b) Section 5316 of title 5, United States Code (as amended by this Act) is further amended by striking out the item relating to the Director, Bureau of the Census, Department of Commerce and inserting in lieu thereof "Director of the Bureau of the Census, Department of Labor".

TITLE VI—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

ADDITIONAL TRANSFERS

SEC. 601. Any function of the Secretary of Commerce or the Department of Commerce which—

(1) is not transferred by titles II, III, IV, or V of this Act; and

(2) is incidental to, necessary for, or primarily related to, the performance of a function transferred by any such title,

is transferred to the head of the Federal agency to which the related function is transferred by such title.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 602. Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions and offices transferred by this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the head of the Federal agency to which such functions or offices are transferred by this Act. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

INCIDENTAL TRANSFERS

SEC. 603. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions and offices transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions and offices, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such times as the Director of the Office of Management and Budget may provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with the functions and offices transferred by this Act.

EFFECT ON PERSONNEL

SEC. 604. (a) Except as otherwise provided by this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this Act.

(b) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in a Federal agency to which functions are transferred by this Act to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) Except for members of the Foreign Service, positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this Act, shall terminate on the effective date of this Act.

SAVINGS PROVISIONS

SEC. 605. (a) All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the Federal agency to which such functions are transferred under this Act or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the Department of Commerce or the Office of the United States Trade Representative, or any office thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the head of the Federal agency to which such functions are transferred by this Act, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the United States Trade Representative, and the head of each Federal agency to which functions are transferred by this Act are authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) Except as provided in subsection (e)—

(1) the provisions of this Act do not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Commerce or the Office of United States Trade Representative with respect to functions transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Commerce or the Office of United States Trade Representative with respect to functions transferred by this Act, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Federal agency to which such function or office is transferred by this Act, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If, before the date on which this Act takes effect, the Department of Commerce or the Office of the United States Trade Representative, or any officer thereof in his official capacity, is a party to an action, and under this Act any function of such Department, Office, or officer is transferred to a Federal agency, then such action shall be continued with the head of such agency substituted or added as a party.

(f) Orders and actions of the head of a Federal agency in the exercise of functions transferred to the head of such agency by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the Office of the United States Trade Representative, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the head of the Federal agency to which such function is transferred by this Act.

SEPARABILITY

SEC. 606. If a provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

REFERENCE

SEC. 607. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to—

(1) the Secretary of Commerce or the United States Trade Representative; or

(2) the Department of Commerce or the Office of the United States Trade Representative or any officer or office thereof,

shall be considered to refer to the head of the Federal agency to whom such functions were transferred by this Act.

TRANSITION

SEC. 608. With the consent of the Secretary of Commerce or the United States Trade Representative, as the case may be, the head of each Federal agency to which functions or offices are transferred by this Act is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department of Commerce or the Office of the United States Trade Representative, as the case may be, with respect to functions or offices transferred to that agency by this Act; and

(2) funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

ADDITIONAL CONFORMING AMENDMENTS

SEC. 609. (a) After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the head of each agency to which functions were transferred under this Act shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

(b) No later than 6 months after the effective date of this title, each such agency head shall submit the recommended legislation referred to under subsection (a).

TERMINATION OF THE DEPARTMENT OF COMMERCE

SEC. 610. The Department of Commerce is terminated.

TITLE VII—MISCELLANEOUS

EFFECTIVE DATE

SEC. 701. (a) This Act shall take effect 120 days after the date of enactment, except that—

(1) section 608 shall take effect on the date of enactment; and

(2) at any time after the date of enactment of this Act—

(A) the officers provided for in titles II, III, IV, V, and VI of this Act may be nominated and appointed, as provided in such titles; and

(B) the Secretary of Commerce, the United States Trade Representative, and the head of each Federal agency to which functions are transferred by this Act may promulgate regulations under section 605(b)(2).

(b) Funds available to the Department of Commerce or the Office of the United States Trade Representative (or any official or component thereof), with respect to the functions transferred by this Act, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a)(2)(A) who will carry out such functions until funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 702. (a) If one or more officers required by this Act to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this Act, to act in the office until it is filled as provided by this Act.

(b) Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this Act for such office.

PERSONNEL AND FUNDING REDUCTIONS RESULTING FROM REORGANIZATION

SEC. 703. No later than 180 days after the date of the enactment of this Act, the Office of Management and Budget shall conduct a study and submit a report to the President and the Congress on personnel and funding reductions which should be implemented consistent with the provisions of this Act to reduce duplicative or unnecessary functions. In preparing the report, the Office of Management and Budget shall consult with the Secretary of Trade and the head of each Federal agency affected by the provisions of this Act and develop a plan for the implementation of such reductions beginning 1 year after the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 704. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Amounts appropriated under this section shall be available until expended.

Mr. DOLE. Mr. President, I rise today to join my friend and distinguished colleague from Delaware, Senator ROTH, in cosponsoring the Trade Reorganization Act of 1993.

This bill is nearly the same as the bill which Senator ROTH introduced at the end of the 102d Congress and which I was pleased to cosponsor at that time.

When the bill was introduced last year, its objectives were efficiency in our foreign commercial and investment efforts, streamlining of bureaucracy and bringing an array of trade assistance programs originally designed for situations that existed in past decades up to date with the global challenges that exist in the 1990's and that will exist in the 21st century.

If those objectives were valid last year—and I believe they certainly were—they are even more valid this year when we need to get more out of Government with less spending.

Mr. President, the American businesswoman and businessman who need information and assistance from the Federal Government, often have to negotiate a large and far flung bureaucracy to get that help. Major corporations have full time offices here in Washington do nothing more than deal with the Federal Government on trade and investment matters.

But our small- and medium-sized companies can't afford that kind of presence. They need the most user-friendly system possible in their Government.

Mr. President, we talk a lot about competition and competitiveness in global trade and that competition is good because it makes our companies better and more efficient. But competition also exists in the American bureaucracy and that doesn't leave our companies in such a good position.

I understand that the Secretary of Agriculture told representatives of American agriculture interests recently that 10 separate administration agencies were involved in reviewing plans for dealing with the former Soviet Union. In the previous administration, a minimum of five agencies were represented at the Assistant Secretary or Under Secretary level in meetings on even the most mundane decisions on trade policy. Companies have waited months or even years for decisions to be made on trade policy matters that seriously affected their profits, their investment, and their ability to hire or maintain employees.

That is understandably frustrating, Mr. President, for the American business person who needs a decision—any decision—so he or she can get on with their jobs but it is doubly frustrating when our business people realize that the entire process is financed by their taxes.

I want to make it clear that the underlying premise of this bill is not to assign blame for bureaucratic delays but to do something about them. I would be remiss though, Mr. President, if I didn't say that Congress itself has to share much of the blame for the situation for creating so many—and often competing—to satisfy the natural desire of committees and subcommittees for jurisdiction in trade and economic policy.

Therefore, Mr. President, one of the requirements of this legislation is for Congress to recognize a national interest in trade policy and to agree on a structure that successfully addresses that interest.

The distinguished Senator from Delaware, Senator ROTH, has put together just that kind of structure in this legislation. As one of the leading experts in Congress on trade policy, he has an excellent perspective on the problems of the past and the solutions for the future. I commend Senator ROTH for his work on this legislation and his devotion to a stronger, more efficient trade policy and I recommend this legislation to my colleagues.

Mr. COHEN. Mr. President, I am pleased to join Senator ROTH and others in introducing the Trade Reorganization Act of 1993. I was pleased to be an original cosponsor of this legislation in the 102d Congress and believe it is a very positive step toward improving U.S. trade policy and our efforts to promote exports.

Currently, Federal efforts to promote U.S. exports are spread among 10 different Federal agencies. The result has been an inefficient and overly bureaucratic system for trying to help U.S. businesses sell their wares overseas. A recent General Accounting Office [GAO] report found a serious lack of coordination among these agencies and recommended that U.S. export promotion programs be consolidated. The act we are introducing today will go a long way toward that end.

Streamlining the Federal bureaucracy will not only eliminate wasteful Government spending but it will greatly improve the service that small businesses receive from the Federal Government. In fact, the ultimate objective of this legislation should be to make whatever bureaucratic changes are necessary to improve our frontline efforts to help businesses—in very practical terms—to export their products. One-stop shopping for businesses looking for export assistance is essential.

Exports already account for about 10 percent of our gross domestic product [GDP]. This figure is sure to grow. To assure the ability of small businesses to participate, it is critical that the Federal Government provide concrete and timely assistance to U.S. small businesses. Many businesses have little or no experience in exporting. The Federal Government can play an invaluable role in helping these businesses compete in the world market. U.S. companies will not benefit from efforts to open foreign markets unless they have the know-how to access these markets. Consolidating the Federal bu-

reaucracy will enhance the Government's ability to give these businesses the knowledge they need.

I want to emphasize that this legislation would not expand the Federal bureaucracy. I would not support adding to the bureaucratic maze that already plagues Washington. This legislation is designed to reduce, not increase, the size of the Federal Government. Moreover, it would do so in a way that would enhance the effectiveness of our trade policy and programs.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. LEAHY, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 22, a bill to amend the Child Nutrition Act of 1966 to make available certain amounts of funding for the special supplemental food program for women, infants, and children [WIC], and for other purposes.

S. 32

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 32, a bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms.

S. 108

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 108, a bill to prohibit the importation of semiautomatic assault weapons, large capacity ammunition feeding devices, and certain accessories.

S. 109

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 109, a bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study of the use and possible regulation of sales of ammunition.

S. 113

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 113, a bill to amend title 18, United States Code, to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms.

S. 178

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 178, a bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition.

S. 179

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 179, a bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets.

S. 212

At the request of Mr. DORGAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 212, a bill to modernize the Federal Reserve System and to provide for prompt disclosure of certain decisions of the Federal Open Market Committee.

S. 235

At the request of Mr. REID, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 265

At the request of Mr. MACK, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 265, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 340

At the request of Mr. HEFLIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 348

At the request of Mr. RIEGLE, the names of the Senator from Connecticut [Mr. DODD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Nebraska [Mr. KERREY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from Nevada [Mr. REID], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 348, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 368

At the request of Mr. BUMPERS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 368, a bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in startup and other small enterprises.

S. 430

At the request of Mr. MACK, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 430, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 434

At the request of Mr. BUMPERS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers a bad debt deduction for certain partially unpaid child support payments and to require the inclusion in income of child support payments which a taxpayer does not pay, and for other purposes.

S. 455

At the request of Mr. HATFIELD, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 470

At the request of Mrs. BOXER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 470, a bill to amend chapter 41 of title 18, United States Code, to punish stalking.

S. 473

At the request of Mr. HATFIELD, his name was added as a cosponsor of S. 473, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific, and technological competitiveness of the United States, and for other purposes.

S. 474

At the request of Mr. COATS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 474, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

S. 493

At the request of Mr. COHEN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

S. 503

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 503, a bill to amend the Immigration and Nationality Act to provide that members of Hamas (commonly known as the Islamic Resistance Movement) be considered to be engaged in a terrorist activity and ineligible to receive visas and excluded from admission into the United States.

SENATE JOINT RESOLUTION 22

At the request of Mr. ROBB, his name was added as a cosponsor of Senate Joint Resolution 22, a joint resolution designating March 25, 1993, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 39

At the request of Mr. D'AMATO, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 39, a joint resolution designating the weeks beginning May 23, 1993, and May 15, 1994, each as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 43

At the request of Mr. LIEBERMAN, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Joint Resolution 43, a joint resolution designating the week beginning June 6, 1993, and June 5, 1994 each as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 47

At the request of Mr. JOHNSTON, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 47, a joint resolution to designate the week beginning on November 21, 1993, and the week beginning on November 20, 1994, each as "National Family Week."

SENATE JOINT RESOLUTION 48

At the request of Mrs. MURRAY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 48, a joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week."

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the names of the Senator from Illinois [Mr. SIMON], the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE JOINT RESOLUTION 53

At the request of Mr. HATCH, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Rhode Island [Mr. PELL], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Oregon [Mr. PACKWOOD], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 53, a joint resolution designating March 1993 and March 1994 both as "Women's History Month."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. EXON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

SENATE RESOLUTION 68

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Resolution 68, a resolution urging the President of the United States to seek an international oil embargo through the United Nations against Libya because of its refusal to comply with United Nations Security Council Resolutions 731 and 748 concerning the bombing of Pan Am flight 103.

SENATE CONCURRENT RESOLUTION 17—RELATIVE TO TAXATION OF CERTAIN FUELS

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 17

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that ethanol fuels and biomass fuels other than ethanol should be exempt from any new energy tax enacted during the 103d Congress.

Mr. PRESSLER. Mr. President, today I am introducing a sense-of-the Congress resolution which states that ethanol and other biomass fuels should be exempt from any new energy tax enacted during the 103d Congress.

At this time, the exact details of the proposed energy tax are not fully available. However, according to the Department of Treasury, ethanol is scheduled to be included in the proposed British thermal unit, or "BTU" tax. That would be a serious mistake.

Mr. President, if the Treasury Department is correct, it would be the proverbial "straw that broke the camel's back." However, it won't be a camel's back we would be breaking. It would be the backs of America's farmers and ranchers collectively snapping under the weight of the BTU tax.

With each passing day, we are learning more and more that agriculture and rural America could be unfairly burdened by the BTU tax. South Dakota's farmers and ranchers cannot afford to pay thousands of dollars in extra taxes. Changes must be made in the BTU tax proposal. One of those changes should be the exemption for ethanol.

The proposed BTU tax is expected to result in tax increases of 7.5 cents per gallon for gasoline, 8.3 cents for diesel and 2.3 cents for propane. It would hit every aspect of agriculture—planting, cultivating, harvesting, heating and drying, and irrigation. The BTU tax would hit South Dakota corn growers especially hard. The fuel cost per acre for corn production in South Dakota already has risen from $21.78 in 1988 to $23.98 in 1990. The BTU tax would increase these costs by an additional 7 to 10 percent. That equates to an additional $1.70 to $2.40 per acre.

However, we also need to look beyond fuel and energy production costs. Fertilizer and pesticide prices would increase as a result of the tax. For corn, drying costs would increase. In South Dakota, those costs already are over $11 per acre for corn. Individually, some cost increases may not seem that great, but when you begin to add-up all the increases, you can see that rural America is being asked to shoulder a very heavy burden.

What can we conclude? It is becoming apparent that the BTU tax would hit American farmers, ranchers and small businesses hard. As for myself, I can reach one additional obvious conclusion: the proposed energy tax would hit South Dakota even harder.

Some numbers being discussed are alarming. The Fertilizer Institute estimates the proposed tax would result in a $4,515 loss in income for the typical 1,500 acre wheat producer. The Fertilizer Institute also estimates the annual loss of income for the typical 700 acre producer would be $5,159.

Mr. President, I know of no South Dakota farmer who could afford to lose $5,000 of his or her hard-earned income each year.

These cost increases focus on energy. Other proposals being discussed would impose additional costs on South Dakota farmers and ranchers. Reductions in low-interest Rural Electric Administration loans could increase electric rates in South Dakota between 10 and 15 percent. The proposed increase for inland waterway fuel taxes could cost farmers who rely on barge transportation from 7 to 8 cents per bushel. In addition to these costs, other proposals such as pollution and environmental taxes are being considered. I will address those proposals at another time, but the numbers on the potential loss of farm income are disturbing.

Mr. President, taxing ethanol while excluding other renewable fuels simply does not make sense. Ethanol is one of the cleanest burning fuels available and our most successful renewable fuel. Additional taxes on ethanol would discourage its use. Ethanol helps reduce carbon monoxide, toxins, and greenhouse gases that contribute to global warming. There is no more environmentally friendly fuel in use today.

Increasing ethanol use will provide additional markets for South Dakota corn growers, benefit the State's agricultural economy and decrease our Nation's dependency on foreign oil. Subjecting ethanol to the proposed BTU tax while excluding other renewable fuels is not good policy. We must not discourage the production and use of ethanol. We must encourage it.

Mr. President, many groups, including the Nation Corn Growers Association, the Renewable Fuels Association, and the Farm Bureau, oppose subjecting ethanol to the proposed BTU tax. I ask unanimous consent that documents from these organizations be printed in the RECORD.

Mr. President, the time has come to stand up and be counted. We must ask ourselves whether we are prepared to expect rural America to pay more than urban America in reducing our Federal deficit. Next week, when the Senate takes up the budget resolution, would be a good time for the Senate to be counted on this issue.

I continue to believe that spending reductions are our best way out of our deficit mess. I have taken the floor of the Senate today to speak on behalf of South Dakota's farmers and ranchers and urge the Congress to ensure fairness for the family farm. By supporting this resolution, we would send an important message about fairness to America's hard-working farmers and ranchers.

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

[From the Farm Bureau News, Mar. 8, 1993]

CITING FARM IMPACT, FB URGES CLINTON TO NIX ENERGY TAX

President Clinton's proposed energy tax will hit farmers especially hard because it will raise production costs, cut farm prices and make U.S. farmers less competitive in world markets, the American Farm Bureau Federation told the president last week.

In a letter to Clinton, AFBF President Dean Kleckner said the proposed tax will cost farmers an estimated $1 billion per year, about 2 percent of U.S. net farm income. Half the $1 billion hit would come from direct fuel costs; the other half would come from indirect costs resulting from price hikes for inputs like fertilizer and pesticides.

The farm leader urged the president to "remove the energy tax from your economic proposal because of its negative impact on efficiency, productivity and competitiveness."

Kleckner told Clinton that agricultural production is "highly energy-dependent." The proposed BTU tax on the heat content of various fuels would result in tax increases of 7.5 cents per gallon for gasoline, 8.3 cents for diesel and 2.3 cents for propane. Kleckner said the new levies would affect all aspects of agricultural production, from running combines to heating barns and greenhouses and operating irrigation systems.

Kleckner provided Clinton with several examples of how the energy tax would affect various kinds of farming operations nationwide. A greenhouse nursery operation in New Jersey would face $1,469 in added costs because of the tax. A 1,200-acre farm with 600 acres of tomatoes in California's San Joaquin Valley would face $3,486 in added fuel costs. A 2,100-acre Kansas farm producing corn, soybeans, milo and wheat would be hit with $1,513 in added costs. The increased expenses will cause lower prices, Kleckner said, because farm prices "generally are established in markets that reflect national and international demand." Farm prices, he explained, reflect international price minus the transportation and handling costs of moving farm goods to centralized markets. With increased marketing and transportation costs, he said, farm prices will "tend to decline to offset these margins."

The proposed increase in the inland waterway fuel tax from 19 cents to $1.19 per gallon, which Kleckner called "exorbitant," highlights the farm price problem. Kleckner said the cost of shipping corn and soybeans from the Midwest to New Orleans on barges would increase by 7 cents and 8 cents a bushel, respectively. That would add $150 million in shipping costs.

"We believe this additional tax would prove to be especially detrimental to U.S. agricultural products in the highly competitive world market and, therefore, to farmers and ranchers," Kleckner asserted.

Another major concern voiced by Kleckner is that ethanol would be subject to the new tax. Kleckner noted that ethanol reduces dependence on foreign oil and cuts air pollution, and increased ethanol production would create American jobs. He said Farm Bureau "strongly opposes" slapping the tax on ethanol.

Kleckner stressed that all rural residents, not just farmers and ranchers, will be hurt by the tax. "The energy tax will disproportionately increase the cost of living for 65 million rural people" who must drive farther than urban and suburban residents to work, shop, get medical care and take children to school, he said.

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, March 8, 1993.

Hon. LLOYD BENTSEN,
Secretary of the Treasury, U.S. Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: On behalf of the National Corn Growers Association, I would like to express a few concerns our organization has with some elements of the Clinton Administration's energy tax proposal which we understand were still being finalized by the Treasury Department late last week.

At the outset, I want to stress that NCGA is troubled by several aspects of the energy tax proposal—let alone other portions of the President's plan affecting commodity programs, inland waterway user fees and commodity futures transaction fees, to name a few. While raising specific questions with the energy tax here, NCGA will ultimately evaluate the President's proposal based on its overall impact on agriculture.

Let me first raise our concern that ethanol would be taxed although the proposal specifically exempts nonconventional fuels including biomass. To suggest that biomass will be exempt, but that alcohol derived from biomass is not exempt ignores the reality that ethanol is produced from domestic, renewable feedstocks. These feedstocks, including corn, have always been included in the broad definition of biomass.

The Treasury proposal would impose the tax on "imported taxable products at a rate equal to the average tax imposed on equivalent domestic products." Will this tax apply to refined energy products? The question arises with respect to methanol produced from fossil fuels which under the proposal would not be subject to the tax, presumably because the underlying fossil fuel would be taxed. To achieve the stated goal of reduced dependence on foreign sources of energy, it is essential that the term "imported taxable products" include refined products such as methanol, methyl tertiary butyl ether (MTBE), and gasoline that would not be taxed domestically, but that would consist entirely of taxable fossil fuels.

We also understand the Treasury Department is working out specifics on how to tax propane, which is a critically important fuel for drying much of our nation's corn supply. NCGA opposes new taxes on fuel for agricultural uses but would recommend, at the very least, that propane be taxed at no more than the basic fossil fuel rate.

Again, these are but a few of the elements of the plan that give us pause. NCGA looks forward to working with the Administration and Congress to craft legislation that will help strengthen our economy but not unfairly burden agriculture.

Sincerely,

RANDY CRUISE,
President.

SENATE RESOLUTION 79—RELATIVE TO BOSNIA-HERZEGOVINA

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 79

Whereas Bosnia-Herzegovina was recognized as a sovereign nation by the United Nations on May 21, 1992, and by the United States on April 7, 1992;

Whereas the Government of Bosnia-Herzegovina has been duly-elected, and is committed to peaceful negotiations with its neighboring states;

Whereas the Government of the United States and the United Nations Security Council is committed to maintaining the territorial integrity of Bosnia-Herzegovina;

Whereas Article 51 of the Charter of the United Nations guarantees the right of self-defense to individuals and states;

Whereas United Nations Resolution 713 (1991) imposed a "general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia" on September 22, 1991, "recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security";

Whereas the Serbian forces inherited almost the entire stockpile of armaments in the Socialist Republic of Yugoslavia, which was the fifth largest army in Europe;

Whereas the embargo froze an unequal and unjust distribution of force, and has enabled the Yugoslav Army and the Serb militias to wage war in Bosnia-Herzegovina;

Whereas Serbia and Serbian-armed forces have launched campaigns of "ethnic cleansing" against non-Serbian residents in Bosnia-Herzegovina, killing over 130,000 people and transferring more than 1.5 million from their homelands;

Whereas the 1992 State Department Country Report on Human Rights Practices states that "massive systematic rape, committed by Bosnian Serb military units and prison guards" has been instituted as policy, and a European Community report estimates that 20,000 women have been raped by Serb forces;

Whereas the Charter of the United Nations is clearly violated when the Government of Bosnia-Herzegovina cannot defend its citizens from such aggression;

Whereas United Nations peacekeeping troops are not authorized through the rules of engagement to protect victims of military assault;

Whereas the Government of the United States and its allies in Europe are committed to enforcing an eventual peace agreement, but are reluctant to send their troops into Bosnia-Herzegovina for the purpose of peacekeeping;

Whereas the international arms embargo has impeded the right of the Government of Bosnia-Herzegovina to protect its citizens from aggression, to ensure humanitarian efforts to delivery food and other supplies, to develop as an independent nation, and to enforce meaningful peace agreements;

Whereas international diplomatic efforts have not to date produced a peaceful and just solution;

Whereas the negotiating strength of each party is dependent to some degree on equity in access to arms, lifting the arms embargo against Bosnia-Herzegovina will assist in self-defense and thereby strengthen the peace process;

Whereas United States Public Law 102-391 of October 6, 1992, states "because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Herzegovina from its embargo";

Whereas the United States should not act unilaterally in this regard without unanimous agreement from the United Nations Security Council; and

Whereas the United States should take actions to support the peace process and political resolutions to the tragedy in Bosnia-Herzegovina; Now, therefore, be it

Resolved,

(1) That the United States should work with the member states of the United Nations Security Council to lift the international arms embargo as it applies to Bosnia-Herzegovina in concurrence with Article 51 of the United Nations Charter; and

(2) That such action should be taken on a timely basis in a manner to complement to the maximum extent feasible the peace process.

Mr. FEINGOLD. Mr. President, today I am submitting a resolution which is intended to contribute to moral deliberations on how the international community is to respond to the genocide and aggression occurring today in Bosnia-Herzegovina. My resolution would express the sense of the Senate that the United States should work with the member states of the U.N. Security Council to lift the international arms embargo as it applies to Bosnia-Herzegovina in concurrence with Article 51 of the U.N. Charter; and that such action should be taken on a timely basis in a manner to complement to the maximum extent feasible the peace process.

Quite frankly, Mr. President, I am submitting this language out of some frustration. For 2 years, we have watched Yugoslavia disintegrate. in the past 6 months, we have witnessed the Serbs perpetrate policies of "ethnic cleansing," systematic rape, and torture of detainees. We have watched the entire city of Sarajevo endure a winter-long siege. We have taken few effective measures against the Serbian tactic of starving Moslem citizens. The list of aggression and sadistic horrors continues—a list so long and outrageous that the United Nations has established a court of international war crimes to prosecute the perpetrators of such atrocities.

We as a Nation and as a world have not done enough to combat this aggression. As I analyze the situation, I think, perhaps, our most serious mistake was imposing an arms embargo against Bosnia-Herzegovina, and prohibiting the Bosnians from defending themselves, as is both their human and political right. Lifting that embargo in a manner consistent with the ongoing and, so far, fruitless peace negotiations is a critical and urgent step we must take.

The arms embargo was imposed by the U.N. Security Council in September 1991 on what was then Yugoslavia for the "maintenance of international peace and security." From that point, the embargo froze an unequal and unjust distribution of force by which the Yugoslav army and the Serb militias inherited almost the entire stockpile of armaments of the Yugoslav Army—which was the fifth largest in all of Europe. The Bosnians and the Croats were left with no means of self-defense, no reasonable protection against what Slobodan Milosevic and the Serb paramilitaries were plotting. Hence, we have found ourselves party to an incomprehensible situation where we are actively denying the Bosnian people the right to self-defense against the worst aggression Europe has known since Hitler.

In effect, the embargo has resulted in a perverted situation in which the U.N. action is serving the aggressor, and not halting aggression. Had the embargo been lifted a year ago, the situation would probably not be as desperate as it is today. Bosnians would have been more able to protect themselves. They would have been less dependent on international protection. They would have been able to try to fight to protect the bundles we airdropped to them. They would have been able to fight to secure access to their roads, to food, to the supplies which have been lacking. They would have had a fighting chance to break the awful siege of Sarajevo, to fight on the ground, and then to come to the peace negotiations with leverage.

Every day that the embargo continues we are further weakening the Bosnians: We are leaving them to slaughter, stripping them of their dignity, and undermining their aspirations to develop as a nation. We are also damaging the prospects for a real peace because negotiations will be effective only when the Bosnians can come to the table as an equal partner.

I understand that our allies in the Security Council are opposed to this move at this point. France and Britain are understandably concerned that lifting the arms embargo would only escalate the level of violence and further endanger their troops on the ground. Russian President Yeltsin, in a delicate position with the Russian nationalists who promote the historic pan-Slavic relationship, does not want to abandon the Serbian position.

I disagree with these reasons, though, and believe that in this case of naked aggression, we must persuade our allies that there are compelling reasons to lift the embargo in the interest of peace.

Though it appears that Cyrus Vance and David Owen could be on the brink of another breakthrough in the peace talks, recent history leads me to be skeptical because they have not reflected or responded to what is transpiring in the theater of battle. Several cease fires have been negotiated. All of these, Mr. President, were broken. All of them only resulted in more bloodshed, more torture, more rape, more "ethnic cleansing." The Serbs, particularly, have been duplicitous as Serb diplomats in London, Geneva, and New York have paid lipservice to peace, while Milosevic and his thugs perpetrate horror on the ground.

We must recognize this pattern, and realize that only when the Bosnians can arm themselves will the Serbs be deterred from committing further aggressions. Only when there is some degree of equity in access to arms can the negotiated cease fires be implemented.

Mr. President, when the Senate Foreign Relations Committee held hearings on this issue in February, all the expert witnesses, Jeane Kirkpatrick, Gen. Michael Dugan, Director William Colby, and Ambassador Paul Nitze, supported lifting the arms embargo: I ask that excerpts from their testimony be submitted for the RECORD.

But the most compelling testimony I heard was from the Bosnian Foreign Minister, Mr. Haris Sildazdjic. In response to a question from Senator BIDEN about whether Bosnia would prefer the continued presence of the U.N. forces or a total U.N. withdrawal, the foreign minister replied, "We would prefer doing it ourselves, but for that we need arms. The arms embargo is what is humiliating * * * the humiliation is to be slaughtered like an animal and not being able to defense yourself like a man."

Clearly, the embargo has not met its objectives. We must do more for peace, and we must do it soon. Meaningful peace talks should continue, and to that end, the U.N. Security Council must lift that embargo. This is only one step of several which we must take to contribute to the peace process, but it is an overdue and terribly important one. We cannot ignore this tragedy any longer.

I ask animous consent that the excerpts mentioned earlier be printed in the RECORD.

STATEMENTS IN SUPPORT OF LIFTING THE ARMS EMBARGO BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 25, 1993

Ambassador Jeane Kirkpatrick:

"I believe in the right to self-defense. * * * I formed that view when reading about the Warsaw Ghetto, of course. * * * I think it is a terrible and * * * unintended consequence of a very good motive to impose an arms embargo in a situation where one side has almost all the weapons and the other side is virtually without means to defend themselves. * * * And so I have believed that we should lift the arms embargo for Bosnians."

General Michael Dugan:

"It seems to me that by empowering the Bosnians * * * [is to] level this playing field. There are several ways one may do that. One has to do with perhaps impounding the heavy weapons. * * * Another has to do with lifting the arms embargo and then supplying weapons to the Bosnians to increase their ability to defend themselves. For the long haul, we want Bosnia to solve Bosnian problems.

"It is my understanding and my belief that given the disparity in weapons available now, the Bosnians are handing themselves very nicely. * * * They inherited this organizational system from Yugoslavia * * * and that with a little technical support, they could—given the morals, given the determination of the people, could handle themselves very well."

Ambassador Paul Nitze:

"I think we should lift the embargo. I should think that would be a helpful thing to do."

Director William Colby:

"I think the argument is that if you lift the embargo you merely create more bloodshed. I do not accept that argument. * * * The real problem * * * is the continuing oppression by the Serbian heavy weapons. * * * Symbolically, lift the embargo, but * * * the solution has to be found in another action."

AMENDMENTS SUBMITTED

NATIONAL VOTER REGISTRATION LEGISLATION

MCCAIN (AND MCCONNELL) AMENDMENT NO. 79

Mr. MCCAIN (for himself and Mr. MCCONNELL) proposed an amendment to the bill (S. 460) to establish national voter registration procedures for Federal elections, and for other purposes, as follows:

At the end of section 7 of the Act, add:

(d) RESTRICTIONS ON AGENCY REGISTRATION.—No agency designated under this Act shall register any individual who receives direct financial aid from that agency.

(1) If an agency described in paragraph (d) is requested by an individual to register that person to vote, the agency must refer that individual to an agency designated in this section and from which the individual does not receive direct financial aid.

(2) EXCEPTION TO PARAGRAPH (d).—If the individual noted in paragraph (d) has or claims to have a disability as defined by the Americans With Disabilities Act of 1990 (P.L. 101-332), that individual must be

(i) referred to another agency designated in this section and from which the individual does not receive direct financial aid, that is both convenient and accessible under the standards of the Americans With Disabilities Act of 1990 (P.L. 101-336), or

(ii) if no such agency designated under (d)(2)(i) exists, any agency designated by this Act will register such individual.

NICKLES (AND OTHERS) AMENDMENT NO. 80

Mr. NICKLES (for himself), Mr. DOLE, Mr. WALLOP, Mr. HELMS, Mr. SMITH, Mr. MACK, Mr. KEMPTHORNE, Mr. GREGG, Mr. MCCAIN, and Mr. COVERDELL) proposed an amendment to the bill (S. 460), supra, as follows:

Strike section 13 and insert the following:

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

(b) FUNDING.—(1) Not later than 180 days after the date of enactment of this Act, a State may submit to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives an estimate of the costs that the State and each political subdivision of the State will incur in implementing this Act that are in addition to costs that the State or subdivision would incur in the registration of voters absent this Act.

(2) This Act shall not take effect with respect to a State that makes a submission under paragraph (1) until January 1 of the year following the year in which Congress enacts—

(A) an Act authorizing payment to the State and its political subdivisions of the additional costs of implementing this Act in the amounts estimated by the States under paragraph (1), unless Congress, in a provision that makes specific reference to this subparagraph, finds and declares that payment of a lesser amount in the case of any particular State will be sufficient to cover the State's additional costs; and

(B) an Act making appropriations in the amounts necessary to make the payments described in subparagraph (A).

PENSION BENEFIT GUARANTY CORPORATION LEASE SETTLEMENTS ACT OF 1993

JEFFORDS AMENDMENT NO. 81

Mr. JEFFORDS proposed an amendment to the bill (S. 400) to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreements reached with the Pension Benefit Guaranty Corporation, as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aircraft Equipment Settlement Leases Act of 1993".

SEC. 2. TREATMENT OF AIRCRAFT EQUIPMENT SETTLEMENT LEASES WITH THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of any settlement of liability under title IV of the Employee Retirement Income Security Act of 1974 entered into by the Pension Benefit Guaranty Corporation and one or more other parties, if—

(1) such settlement was entered into before, on, or after the date of the enactment of this Act,

(2) at least one party to such settlement was a debtor under title 11 of the United States Code, and

(3) an agreement that is entered into as part of such settlement provides that such agreement is to be treated as a lease,

then such agreement shall be treated as a lease for purposes of section 1110 of such title 11.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 11, 1993, at 9:30 a.m., in open session, to receive testimony on certain pending military nominations.

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

COMMITTEE ON BANKING

Mr. INOUYE. 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 Tuesday,

March 16, 1993 at 10 a.m. to conduct a hearing on the Competitiveness Policy Council's second annual Report (being held jointly with the Joint Economic Committee).

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 11, 1993, to receive testimony on the energy needs of the People's Republic of China.

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

COMMITTEE ON FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 11, 1993 at 10 a.m., to hold a hearing on the money's worth of Social Security.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 11 at 3 p.m. to hold a hearing on the Open Skies Treaty; Treaty Doc. 102–37.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet for a hearing on Thursday, March 11, at 9:30 a.m., on the subject: Improving Government Organization and Performance.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Surface Transportation, Subcommittee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 11, 1993, at 9 a.m. on oversight of the intercity bus industry.

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

ADDITIONAL STATEMENTS

CONCERN FOR THE NATURAL GAS CONSUMER

• Mr. SARBANES. Mr. President, I rise today to express my concern that natural gas consumers could face inequitable and substantial costs due to a Federal order that will restructure the natural gas industry. In particular, I am very concerned that the implementation of this order could create a unique problem for natural gas users served by Columbia Gas Transmission Corp., possible costing these consumers hundreds of millions of dollars.

In April of last year, the Federal Energy Regulatory Commission issued Order 636 to require a massive restructuring of services, tariffs, and rates rendered by interstate natural gas pipelines. Order 636 would mandate that pipeline companies transport only natural gas owned by others, and not act as wholesalers as they have until now. To comply with the order, pipeline companies would be permitted to pass along to their consumers the cost of terminating long-term gas contracts. While it is my understanding that on the average, a household in the Washington-Baltimore area could expect to see a $100 increase in their natural gas bills because of these transition costs, I am further concerned by a special situation involving the Columbia Gas Transmission Corp. that could raise natural gas bills for consumers in my State even more.

Mr. President, Columbia Gas Transmission Corp., an interstate natural gas pipeline company, filed for Chapter 11 bankruptcy protection on July 31, 1991. The Bankruptcy Court is currently in the process of determining the allowable level of claims that must be paid to creditors in a confirmed reorganization plan. I am very concerned that implementation of Order 636, before these issues are clarified in the pending bankruptcy proceedings, could have significant impacts on the pipeline's customers. Specifically, Order 636 could compromise the consumer's rights in bankruptcy and require execution of new service contracts with an entity that may change ownership and cost structure due to the bankruptcy reorganization. Moreover, it is my understanding that Order 636 may enable the pipeline to pass along to consumers over $1 billion in contract rejection costs.

In light of this potentially large and inequitable cost to natural gas consumers in Maryland, I have joined with the entire Maryland delegation in sending a letter to Elizabeth Moler, acting chair of the FERC, requesting that implementation of Order 636 on Columbia Gas Transmission Corp. be deferred until the Bankruptcy Court completes its deliberations and proceedings. I note that such a deferral is strongly supported by Columbia's public utility customers, the Maryland Public Service Commission, and consumer advocates and would be consistent with other utility bankruptcies where the Bankruptcy Court conditionally confirmed a reorganization plan subject to regulatory approval.

Most recently, I have joined as an original sponsor of Senate Joint Resolution 59, to express the sense of Congress that the Federal Energy Regulatory Commission should refrain from further processing of Order 636 until 60 days after the General Accounting Office submits a report detailing the economic impact of this order on homeowners, small businesses, and other end-users of natural gas. In my view, it would be inappropriate to further proceed with this order without the benefit of careful analysis to determine the economic effect that Order 636 may have on consumers.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 5, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $2.1 billion in budget authority and $0.5 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $392.4 billion, $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated March 1, 1993.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 9, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1993 and is current through March 5, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 1, 1993, Congress approved and the President signed P.L. 103–6, providing emergency funding for extended unemployment benefits. This action did not change the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF MAR. 5, 1993

[in billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,250.0	1,247.9	−2.1
Outlays	1,242.3	1,241.8	−.5
Revenues			
1993	848.9	849.4	+.5
1993–97	4,818.6	4,820.0	+1.4
Maximum deficit amount	420.8	392.4	−28.4
Debt subject to limit	4,461.2	4,120.4	−340.8
Off-budget:			
Social Security outlays:			
1993	260.0	260.0	
1993–97	1,415.0	1,415.0	
Social Security revenues:			
1993	328.1	328.1	(2)
1993–97	1,865.0	1,865.0	(2)

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS MAR. 5, 1993

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			849,425
Permanents and other spending legislation	764,283	737,413	
Appropriation legislation	732,061	743,943	
Offsetting receipts	(240,524)	(240,524)	
Total previously enacted	1,255,820	1,240,833	849,425
ENACTED THIS SESSION			
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(7,928)	962	
Total current level [1]	1,247,892	1,241,794	849,425
Total budget resolution [2]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	2,098	496	
Over budget resolution			535

[1] In accordance with the Budget Enforcement Act, the total does not include the following in emergency funding: P.L. 102–229, BA, 0, Outlays, $712,000,000; P.L. 102–266, BA, 0, Outlays, $33,000,000; P.L. 102–302, BA, 0, Outlays, $380,000,000; P.L. 102–368, BA, $926,000,000, Outlays, $5,850,000,000; P.L. 102–381, BA, $218,000,000, Outlays, $13,000,000; P.L. 103–6, BA, $3,322,000,000, Outlays $3,322,000,000; total BA, $4,467,000,000, Outlays, $10,310,000,000.

[2] Includes revision under section 9 of the concurrent resolution on the budget.

Note.—Amounts in parentheses are negative. Detail may not add due to rounding.•

CUIDANDO LOS NIÑOS (CARING FOR THE CHILDREN)

• Mr. DOMENICI. Mr. President, I would like to bring to the attention of the Senate a story which I think illustrates how something special can happen when concerned citizens, businessmen, and public officials work together to preserve something worth fighting for in their community. We often hear talk of how Americans have grown more cynical and callous; however, don't tell this to the people of New Mexico.

In February, I was contacted by Peggy McIntire, the executive director of the Cuidando Los Niños, which translates as "caring for the children," is a preschool, daycare, and family-service center for homeless children in Albuquerque. The center currently cares for 26 children daily while their parents work, go to school, or search for employment.

The center normally relies primarily on emergency shelter grant Federal funds, grants from the county, funds from the Federal Child-Care Food Program, to meet its $16,000 monthly budget. Donations from private foundations, churches, and individuals also help ensure that the center's doors stay open and that the children are adequately cared for.

In February, however, Peggy informed me that many of these foundation grants wouldn't be arriving until May. Unless the center could raise the $32,000 needed to continue operations for 2 months, it would have to close its doors until May.

There's a marvelous scene at the conclusion of the Capra movie "It's A Wonderful Life," when the townspeople of Bedford Falls, knowing that George Bailey—a decent, caring individual—is in financial trouble and facing prison, generously and without question, donate their own money to assist him in his hour of need. In the case of Cuidando Los Niños, its cry for assistance sparked the same outpouring of community support and generosity.

With the help of the Albuquerque Journal, Albuquerque Tribune, and KOB–TV in Albuquerque, the word quickly spread that Cuidando Los Niños was in dire financial straits. The response, in an understatement, was phenomenal. Individuals donated checks ranging from $5 to $30,000. I personally contacted several businesses in New Mexico to encourage their support, and am pleased to note the generosity of several businesses in the Albuquerque area.

Schools, churches, and other organizations generously lent their support as well, and I will ask in a moment that Peggy McIntire's most recent letter to me be printed in the RECORD so she can share with you some other examples of the kindness of New Mexicans.

Mr. President, there's an old saying that one never stands so tall as when stooping to help a small child. The tremendous public and private response to the plight of the children at Cuidando Los Niños is further indication that the people of New Mexico have never been too proud to stoop to lend a hand.

I ask that the March 9 letter from Peggy McIntire be printed in the RECORD.

The letter follows:

CUIDANDO LOS NIÑOS,
Albuquerque, NM, March 9, 1993.

Senator PETE V. DOMENICI,
Albuquerque, NM.

DEAR SENATOR DOMENICI: I would like to tell you of the commitment of the Albuquerque and Santa Fe communities.

Exactly one month ago, February 9, 1993 I wrote to you and explained the difficult situation that Cuidando Los Niños was facing. We were caught in a cash flow crisis that could easily have forced us to close the center. Maxine Gallegos from your office was very helpful.

The next day I contacted the Albuquerque Journal. Rene Kimball wrote a wonderful article that began a wonderful flood of support from the community. We were featured on a news segment on Channel 4, both the Journal and the Tribune wrote editorials to support our plight.

The children of Comanche Elementary School are putting together a talent show, art show, and fundraiser for Cuidando Los Niños that will be held tomorrow evening. The children have worked very hard on this project, included in their show will be facts about homelessness that they have researched.

The seventh grade class at Sandia Prep had a Valentine Dance with all the proceeds going to Cuidando, they raised $500.00. Both schools have written letters to our Congressional Delegation as well as our State officials.

The General Mills Foundation was able to give us a check for $10,000.00. This donation was supported by you and we certainly appreciate your help.

Thank you for your help and those of your staff. We are on our way to becoming even more financially sound than we had ever dreamed.

In the words of Marian Wright Edelman in her State of America's Children 1992, for the Children's Defense Fund . . . "It is time to wake up and realize that the poor and homeless are not somebody else. They are, or may be, you and me."

I personally thank you for your help and look forward to working with you again.

Sincerely,

PEGGY A. MCINTIRE,
Executive Director.•

DEFENSE REINVESTMENT AND CONVERSION

• Mr. PRYOR. Mr. President, I am pleased to be on the Senate floor today to congratulate the President on his announcement to release $1.4 billion in defense conversion funds appropriated last year by Congress. There can be no doubt that this assistance is needed, with portions of our economy already reeling from last year's defense cutbacks, and with more on the way this year. Nevertheless, the President has shown true vision and leadership by making this decision. His swift action demonstrates a true commitment to helping the many veterans of the cold war who must endure the painful effects of reduced defense spending.

By now, most people are familiar with the devastating statistics that describe the defense draw down: Every day for the next 5 years our country will lose 1,000 defense-related jobs; over that same period, some 160 communities will be economically devastated due to base closures and defense industry shutdowns. States like Connecticut and California, which face significant regional economic problems already, are targeted to lose major defense installations over the coming years.

This bleak picture is what prompted the Senate majority leader, Senator MITCHELL, to appoint a task force last year to examine this issue and make recommendations to the Senate on how to help the country adjust to defense reductions. It was my pleasure to serve on the Senate Democratic Defense and Economic Transition Task Force last year with 20 of my Senate colleagues. The task force studied the issue thoroughly, made recommendations on ways to help workers, communities, and industries adjust to defense reductions, and then worked together to turn these recommendations into law. The result of this work was over $1.5 billion in defense conversion funds authorized or appropriated by Congress last year. I commend my fellow members of the Senate task force for this accomplishment, as well as other Members of the Senate who worked so hard on this issue including Senators INOUYE and LIEBERMAN, and those Members of the House of Representatives who provided leadership to make this assistance available.

One would think that with such a clear, demonstrated need for defense conversion assistance, Presidential leadership would have been evident in the past, but that was not the case. When the Congress appropriated $200 million in defense-related worker and community adjustment funds in 1991, it took the Bush administration almost a year to begin spending the money. When the House and Senate included defense conversion and reinvestment money in last year's Defense authorization bills, the money which President Clinton is now releasing, Secretary Cheney wrote a letter to the chairman of the Armed Services Committee in which he said:

> Both bills provide at least $1 billion for economic conversion. * * * The programs in both bills are not necessary, would be an inappropriate use of defense funds, and would be at the expense of needed national security programs.

Last year, Fort Chafee in Fort Smith, AR, and Eaker Air Force Base in Blytheville, AR, were affected by the defense drawdown, and I saw the previous administration's indifference to conversion efforts first hand. When I sat down with local community leaders, I learned that our Government was not prepared to handle the challenges of defense conversion. These leaders described the frustration of working with a Federal Government that was not properly coordinated in its efforts. At a hearing I held on the closing of the Eaker Air Base, members of the President's Economic Adjustment Committee—which has been responsible for conversion activities and is composed of representatives from various Federal agencies—acted as though they had never met each other. In fact, they barely had, since the Economic Adjustment Committee has only met twice over the last 10 years.

This example demonstrates exactly why Congress alone cannot direct the Nation's defense conversion efforts. The President must be involved to focus attention on the needs of defense impacted areas, to mobilize the energies of the Federal Government, and most of all to coordinate the multitude of conversion efforts which will take place across the Federal Government. The Departments of Labor, Commerce, Defense, Energy, the Small Business Administration, the National Science Foundation, and many other agencies and entities of the Federal Government all have a defense conversion role to play. With so many different actors the potential for confusion and duplications of effort is tremendous. Moreover, given the reluctance of the executive branch to undertake defense conversion efforts in the past, the bureaucracy needs a strong signal and a firm guiding hand from the White House to insure that these funds flow quickly and effectively to the people and places that need help.

I am confident the President will continue to provide that strong signal and that guiding hand. The President discussed this issue at length during the campaign, he has demonstrated a deep understanding and interest in the problems affecting defense-impacted areas, and now, less than 2 months into his administration, he is personally kicking off this sizable conversion program. Not only is the President himself involved in leading defense conversion efforts, but I understand his National Economic Council will play a monitoring and coordinating role which will be most welcome.

While the road ahead for the country will clearly be a difficult one, help is available for those unfortunate enough to feel the effects of reductions in defense spending. Moreover, with continuing work by the Congress and with Presidential leadership, I believe our country can emerge from this post-cold-war transition stronger and more vibrant than before. I look forward to working with the President and my colleagues on this issue in the future.•

COMMENDING THE SYNERGY CORP. SMALL BUSINESS INCUBATOR

• Mr. BOND. Mr. President, today I would like to take a few moments to recognize the Small Business Synergy Corp. On March 12, 1993, there will be a ribbon-cutting ceremony in their honor. The Synergy Corp. utilize the incubator concept to assist small and emerging businesses, who in return strengthen the economy of St. Charles County, MO.

During the 1980's St. Charles County experienced significant economic and population growth, ranking in the top three fastest growing counties in the United States. Although this is good news for my home State, this fast-paced growth has left St. Charles County with an economic dependence on three key industries: automotive, airline, and defense.

The area's economy has suffered profoundly from the recent series of McDonnell Douglas layoffs which began in July 1990. Projected declines in defense spending combined with possible cutbacks in the automotive and airline industries have caused some concern. The workforce in these industries are highly educated and well paid. If cutbacks occur, these skilled workers will have a difficult time finding comparable jobs and wages.

The Small Business Synergy Corp. will use the incubator concept to help stimulate and diversify the local economy by assisting small and emerging businesses. Small businesses are important to the economic growth of St. Charles County because they create jobs, provide new products and services, purchase goods and services, increase the tax base, and enhance the overall quality of life.

The Synergy Center is a facility that offers new and emerging businesses affordable space, shared equipment and services, and a wide range of professional, technical, and financial assistance. The Synergy Center will also provide onsite business and MBA courses as well as continuing education opportunities for incubator tenants and St. Charles County businesses.

Mr. President, I would like to extend my sincere congratulations to the Small Business Synergy Corp. for their service and commitment to the community, and I am honored to have had the opportunity to recognize their accomplishments.•

CONGRATULATIONS TO AGRIBANK FOR PAYING OFF ITS LOAN 11 YEARS EARLY

• Mr. DURENBERGER. Mr. President, I rise today to pay tribute to the AgriBank, Farm Credit Bank of St. Paul, MN. AgriBank has paid off the remaining $133 million of a Federal loan that was provided to the former Farm Credit Bank of St. Paul under the Agricultural Credit Act of 1987.

AgriBank's solvency proves not only that the Agricultural Credit Act of 1987 was the right move—but also that farm lending has regained its strength and will help rural America for years to come. It is not very often that we hear about Government loans being paid off early, let alone 11 years before they come due. If the savings and loan bailout had been handled as well as the Agricultural Credit Act, this country would be in a lot steadier fiscal shape right now.

AgriBank, FCB is the wholesale lender for 34 farm credit services throughout Arkansas, Illinois, Michigan, Minnesota, Missouri, North Dakota, and

Wisconsin. These institutions have more than $10 billion in loans outstanding to more than 124,000 farmers, ranchers, and rural homeowners. Mr. President, the strength and success of AgriBank assures thousands of rural Americans that they will have a lender who understands and cares about their way of life. I ask my colleagues to join me in congratulating AgriBank for its record of success.●

TRIBUTE TO WADDY AND PEYTONA

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the towns of Waddy and Peytona located in eastern Shelby County about 30 miles east of Louisville.

Waddy and Peytona rest among the rolling hills of central Kentucky amid a countryside dotted with farms, ponds, and forests. The villages are separated by Interstate 64, but many residents are hesitant to say where one boundary ends and the other begins.

Waddy was founded in 1888, and takes its name from Maj. W.L. Waddy, a Confederate Army veteran who once owned land where the town is now located. Peytona was named for landowner John Peyton. Both villages have survived the urbanization of America's rural towns and are now popular with families seeking quiet, convenient living relatively close to the city.

Waddy and Peytona residents enjoy the simplicity of their towns. Although most businesses are in Peytona, only one traffic light is needed. In Waddy, the self-appointed town council meets at the Mini Mart, and for entertainment, friends gather at the elementary school for basketball games sponsored by the Waddy Ruritan Club. Most houses in Waddy and Peytona do not have cable television, but for a quarter, Waddy Union 76 Truck Stop patrons can purchase 15 minutes of cable programming on a pay television. Most residents prefer the simple life offered in Waddy and Peytona and regularly turn down offers to urbanize their towns.

I salute Waddy and Peytona and the fine citizens of these towns for maintaining such a simplistic lifestyle. Waddy and Peytona truly are outstanding Kentucky towns.

Mr. President, I ask that an article from the Louisville Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

[From the Louisville Courier-Journal, Feb. 8, 1993]

WADDY/PEYTONA—HIGHWAY THAT SEPARATES TOWNS ALSO GIVES THEM EQUAL BILLING

(By C. Ray Hall)

Imagine a place so wholesome that the town's Miss Kitty was a schoolmarm. A place with more churches than stores. A place where the lawns sprout American flags, not satellite-TV dishes. Where both grocery stores use the front porch as a crisper for the lettuce. A place where, in the old days, the big money was in milk.

A place with no city government. A place where the self-appointed "town council" meets at the Mini Mart, under a sign saying, "Cold an Flu Center." The other day while the council huddled beneath the Tylenol and Alka-Seltzer, 10 pickups, half of them Fords, were parked out front. "There wasn't a car in the lot," said store owner Bill Eggen.

An autographed photo of Naomi Judd on the store's bulletin board certifies that it's "my kind of town."

It's a'um, Waddy kind of a place.

Distinctive as it is, Waddy is doomed to share equal billing in the public imagination with Peytona, its northern neighbor. Like Hope and Crosby, or Sonny and Cher. This blurring of identities comes from one thing: a green sign on Interstate 64, halfway between Louisville and Lexington, announcing the Waddy-Peytona exit. The sign, which punctuates an otherwise unremarkable stretch of I-64, gives comic relief to big-city smart alecks, they keep cracking wise about the Waddy-Peytona International Airport and other such mirages. So Waddy and Peytona are two towns joined at the hyphen, by the would-be hip.

Says Betty Curtsinger, a school secretary who lives in Peytona: "What amazes me, that sign, Waddy-Peytona. It seems like it fascinates people."

Waddy could be the name of a carton character, like Elmer Fudd. Peytona suggests grandeur, the kind of place Robin Leach might visit ("Welcome to Pay-toner, Cher's palatial hideaway on the Adriatic"). In reality, Waddy is closer to grandeur, "Peytona," says Thelma Woods, not unkindly, "is just a garage."

A few days ago, a man in Louisville called information for the number of Peytona's landmark business, the Peytona Garage.

Operator: "Is that in Kentucky?"

Caller: "Yes ma'am. Shelby County. It may be in the Waddy listings."

Long pause.

Operator: "I don't see any Pay-tone-yuh. I can check Waddy."

You know you're small when you're a bit player in the Waddy section of the phone book. And yet, as Betty Curtsinger and Thelma Woods were saying just the other day. . . .

Woods: "Peytona has no . . ."

Curtsinger. ". . . beginning and no end."

You could say the same of Waddy. When asked to define the town's boundaries, a functionary at the county zoning office in Shelbyville said with a chuckle, "Really, we don't know."

David Sparrow, principal of the Heritage Elementary School, says, "This is probably going to make a lot of people made, but I think Waddy has absorbed Peytona."

Sparrow's school, a handsome 3-year-old structure, is in Peytona, but it has a Waddy address.

"A lot of people have Waddy addresses that have never been to Waddy," says postmaster Linda Waits, who dispatches mail to four counties in the name of Waddy.

Mail carrier Jim Rankin says, "You can say you live in Waddy and you could live in Anderson, Spencer, Franklin or Shelby county." He guesses 350 people live in Waddy, counting "downtown and the suburbs."

"A few years ago, a fellow down at the bank and I did a mental head count," says the postmaster. They came up with 300. Now she guesses perhaps 400 people live there.

Regardless of how many people there are, they go by an enchanting name. "Most people," says Thelma Woods, "call us Waddy Bodies.

People say Eggen, the storekeeper, thought that up. "He instigates all the problems," says Joe Franklin, unofficial town council member. Likewise, Eggen is given credit for naming Peytona Beach Road (a play on Daytona Beach, Fla., that doesn't register as it should, because everybody says "Puhtona"). The beaches are as imaginary as the international airport.

Before this highway-sign thing and the attendant fun-poking, Waddy used to live in happy obscurity. Well, not always happy.

"When we went to Washington, D.C., on our senior trip, we felt like we were as big as anybody," says Curtsinger (class of '56). "People would say, 'Where is Waddy?' and we were ready to fight them."

Thereby living up to the nickname of the school's basketball team, the Waddy Warriors, who fired their last shot in anger in 1960.

The old school is in ruins now, but the memories linger. And the slogans that are so often chiseled above eternal columns on public buildings are graven into private memories. Curtsinger can never think of school librarian Posey Brown without the word "Integrity" leaping into her mind.

The town's heroes have always been teachers. (One of them, Paul Garrett, was president of Western Kentucky University. He read anything with words, from classics to pulp.)

The teachers who stayed are locally famous: Roy Martin, teacher and principal for four decades; Miss Kitty Frazier, first-grade teacher; the four redoubtable Brown sisters, Posey, Alpha, Lucille and Billie, who taught less in the classroom than in real life. Christine Neblett, the last link to those old days, can be seen regularly cruising about in her yacht-sized Cadillac. Well, almost seen, because she is short in stature, far shorter than the shadow she throws over the town.

Franklin recalls Neblett's telling obstreperous algebra students twice her size: "I don't give very many whippings, but when I get through talking to you, you'll wish I had."

Locally, you can go only through the fifth grade now, and the school is across the interstate, in Peytona.

Peytona, hub of commerce and learning, has all the businesses. The few businesses in Waddy are notable as social centers. The top floor of the bank is owned by the Masonic lodge. The town council, so to speak, meets at the Mini Mart. The other grocery, Linda's, was once owned by a fellow named B. Shouse, who was so dexterous he could play Rook with one hand and run the cash register with the other. On winter days when there was little farming to do, as many as five Rook games would be going on simultaneously.

It figures the game would be Rook, a card game not associated with gambling. A century ago, when Waddy was young, it had a paper, the Waddy Enterprise ("Our Motto: Push and Progress") that proclaimed the town the "new and successful wonder of the Bluegrass region." It also had a spate of laws designed to keep the new wonder civilized. Some of the laws:

No marble playing on Sunday. Fine $1–$5.

No hog pens and such that become offensive to neighbors. Fine $5–$10 per day.

No hitching your stallion to a shade tree. Fine 50 cents–$1.

No stallion shows in the street, either. Fine $5–$10.

No ball-playing in the street, either. Fine $1–$5.

And this one: "Behavior at any public gather unbecoming a good citizen, such as talking, hissing, stamping the feet or in any way disturbing the speaker or the audience." Fine $5–$25.

And there was supposedly a minor turf war when Gov. Brereton Jones' helicopter crashed last year in Shelby County. Unlike the Waddy boundary, the volunteer fire departments' line is clearly drawn. If your car catches on fire in the eastbound lane of I–64, the Waddy firefighters will respond; if you're on fire in the westbound lane, the Peytona-side firefighters will put you out.

So there's a history of contentiousness, as well as contentment, in Greater Waddy. That may explain why a town of its size needs three Baptist churches, the newest of which has the most inspired name: Sonrise Valley.

"What is commendable," says Sparrow, "is that people who live in Shelbyville and Frankfort still come to Waddy to church."

That's one way to spend half the weekend. Another is to go to the youth basketball games sponsored by the Waddy Ruritan club. Every Saturday, nearly 150 youngsters ages 8–14 execute nine games in the Heritage school gym. The two strangest sights: 8-year-olds firing a multitude of shots straight up in the air; and middle-aged guys in plaid shirts and farmer's caps serving the crowd hot dogs for breakfast.

Ed Fegenbush, who runs the league, is one of the town's many commuters, driving 38 miles to his job with the Army Reserves in Lexington. When he comes home, he's glad to be back in the country.

"People in town want to keep Waddy small, not have a stoplight in the middle of town," he says.

Peytona does have a red traffic light, slowing down the traffic to Bagdad. But Waddy has a king-sized traffic stopper in the trains that regularly come through. Because of this inconvenience, Waddy actually has a bypass, called Fair View Avenue, that goes around and over the railroad track, on a bridge whose steep approach might appeal to motorcycle stuntman Evel Knievel.

There are some highly noticeable changes, including the new street names. Next on the agenda of social change is cable television.

"I think we have just about everything we need," Spencer says. Actually, Waddy-Peytona already has pay television, at the Waddy Union 76 Truck Stop (somewhat casually called "Col. Waddy's Cafe," in historical disregard for W.L. Waddy's actual rank; the man who gave his name to the town was a Confederate major). A quarter will buy you 15 minutes of Lexington TV. The television sets, alas, are smaller than some of the entrees.

The truck stop capitalizes on casual passers-by, selling commuter mugs that say "Buzzard's Roost Waddy Kentucky." (The sleight-of-hand here is geographical, for the actual Buzzard's Roost is way up the road, by Clay Village.)

For many folks, the truck stop is a symbol of something other than historical or geographical impurity. It's a symbol of urban intrusion. Some out-of-towners have proposed building a competing truck stop on the Peytona side of I–64. Locals aren't at the pushing-and-shoving stage yet, but they're plenty worried.

"One truck stop is enough," says Spencer.

Interstate 64 brought the truck stop. It brought an element of cartoonist identity to the place. And it continues to bring new residents who work in cities where they'd rather not live.

"I think it keeps the town from disappearing," Sparrow says of the interstate. But even without the interstate, there might have been some stubborn survivability. There's just something about Waddy Bodies, apparently.

POPULATION (1990)

Shelby County, 24,824, Waddy and Peytona are unincorporated, so the U.S. Census Bureau has no figures. Locals estimate the population at 450–500. That may be wildly inaccurate, since nobody, not even the county zoning office, seems ready to declare exactly where either place begins and ends.

BIG WADDY-PEYTONA EMPLOYERS (1993)

Heritage Elementary School, 50; Waddy Union 76 Truck Stop, 35; Masters Equipment, 9; Peytona Garage, 8; Ferrell's Air Conditioning & Heating, 5.

MEDIA

Newspaper—Shelbyville Sentinel-News (twice weekly), Radio—Shelbyville, WCND-AM, WOPK-FM, Television—10 broadcast channels available from Louisville and Lexington; folks with big antennae get Cincinnati stations; cable is coming soon to screens in Waddy and Peytona.

EDUCATION

Heritage Elementary School (Peytona), 520 students, part of Shelby County Public School, whose enrollment is 4,486.

TRANSPORTATION

Air—Nearest airports with scheduled service, Standford Field, Louisville, and Bluegrass Airport, Lexington, each about 40 miles away, Rail—CSX, Southern, Highways—I–64 is normally 1 mile from Waddy and 2 miles from Peytona, which are connected by KY, 395; U.S. 50 runs through Peytona.

TOPOGRAPHY

Pleasantly rolling countryside punctuated with farm ponds, forests, exciting two-lane roads and signs denoting just-sold farms that are ready to be made into subdivisions.

FAMOUS FACTS AND FIGURES

Waddy, which was founded in 1888, takes its name from Maj. W.L. Waddy, Confederate Army veteran. For $1 the major gave land for the railroad on condition that the depot (and ultimately, the town) bear his name. Peytona was named for landowner John Peyton.

Waddy produced at least two presidents, Leon Martin was president of the Louisville & Nashville Railroad and Paul Garrett was president of Western Kentucky University from 1937–55.

The Waddy voting precinct which stretches far beyond the village, is 92 percent Democratic, with 817 Democrats and 48 Republicans. Peytona is a small part of the Clay Village precinct which has 748 Democrats and 72 Republicans. Both areas are overwhelmingly white. Among the 1,496 registered voters, independents included, less than 1 percent (14) are black.

Price of a Kentucky HeadHunters Dumas Walker burger at the Union 76 truck stop: $3.79.•

GATT NEGOTIATIONS

• Mr. RIEGLE. Mr. President, the Clinton administration's trade negotiators are now involved in a review of the current status of the Uruguay round of the GATT world trade negotiations. Press reports indicate that officials at USTR and elsewhere are attempting to focus on the outstanding issues that still need to be resolved in order to make a judgment as to how long a period of time they should seek an extension of GATT fast-track authority.

One outstanding issue on which these negotiators should focus, is the unsatisfactory condition of the so-called Dunkel text on financial services. Under that text, countries with closed financial services markets are not required to provide market access to foreign firms, nor to extend national treatment to those firms that are permitted into their market. The text, which extends most-favored-nation treatment to all signatories, contains no mechanism to protect against free riders.

On February 3, 1992, Senator Garn and I wrote to then Secretary Brady and then Trade Representative Hills to voice our concerns about the inadequacies of the Dunkel text in this regard. In that letter, we set forth what we believed had to be the basic elements of any agreement on financial services that was in the best interests of our Nation.

On January 10, 1993, an article by Bob Pozen, managing director of the Fidelity Investment firm in Boston, entitled "Is America Being Shut Out Again" was published in the New York Times. The article likewise criticizes the current Dunkel financial services text. Mr. Pozen warns that:

> For the American financial services sector, however, a quick completion of the Uruguay Round threatens to cast in concrete a current one way street: American financial markets would remain open to all comers, while Asian markets would continue to restrict access.

Mr. Pozen believes such an agreement would not serve America's interests and I agree with him. He believes that the United States should take an exemption from the most-favored-nation concept in relation to countries with closed financial markets.

As chairman of the Banking Committee, I urge the new administration's trade negotiators to list this item as an outstanding issue that needs to be resolved in future negotiations. If it is not resolved, it will certainly make it more difficult for Congress to approve whatever agreement finally emerges from the current GATT round.

I am putting into the RECORD the letter Senator Garn and I sent to U.S. negotiators on this issue last year and the article the Fidelity Company's managing director recently had published on it in the New York Times.

The material follows:

U.S. SENATE,
Washington, DC, February 3, 1992.

Hon. NICHOLAS F. BRADY,
Secretary, Department of the Treasury, Washington, DC.

Hon. CARLA A. HILLS,
U.S. Trade Representative, Executive Office of the President, Washington, DC.

DEAR MR. SECRETARY AND MADAM AMBASSADOR: This is a follow-up to previous letters

of September 21 and December 6, 1990 expressing our views on the financial services agreement currently under discussion in the Uruguay Round of the GATT international trade negotiations. While we commend both of you and your staffs for the efforts you have made in these negotiations, we are very concerned that none of the major objectives sought by the U.S. are attained in the so-called Dunkel "draft" text.

Under that text, countries with closed financial service markets are not required to provide market access to foreign firms nor to extend national treatment, defined as equality of competitive opportunity, to those firms that are permitted into their market. The text, which extends MFN to all signatories, contains no mechanism to protect against "free riders", or countries which sign the agreement but make few if any concessions in the current negotiations. Furthermore, the text does not give financial services officials a role in making final decisions regarding disputes that might arise under the annex.

As currently formulated, the agreement would institutionalize the weak competitive position of U.S. financial services firms in foreign financial markets. It would require the U.S. to maintain its current open market, while permitting other countries to keep their markets closed. Such an agreement does not serve the interests of our financial services industry or our Nation. In our September 21, 1990 letter we stated that any GATT agreement on financial services should contain, at a minimum: (1) the right of establishment; (2) a guarantee of national treatment, defined as equality of competitive opportunity; (3) procedures for settling disputes quickly; and (4) a prompt withdrawal of benefits from any signatory that fails to comply with its objectives. In our view, as we stated in 1990, these are the minimum commitments to which any OECD signatory must be bound and are the basic elements we will be looking for in any GATT agreement on financial services. It appears to us that sectoral non-application is the best mechanism to ensure that only those countries that are serious about liberalization enjoy the benefits of any financial services commitments.

We urge that you consider these concerns during your efforts to conclude a GATT Round that really does serve the interests of our Nation.

Sincerely,

DONALD W. RIEGLE, Jr.,
Chairman.
JAKE GARN,
Ranking Minority Member.

IS AMERICA BEING SHUT OUT AGAIN?

(By Robert C. Pozen)

The world's trade negotiators, having reached a tentative agreement on agriculture, are pushing to conclude an agreement on other sectors by next month, when the Uruguay Round of the General Agreement on Tariffs and Trade is slated to be completed. For the American financial services sector, however, a quick completion of the Uruguay Round threatens to cast in concrete the current one-way street: American financial markets would remain open to all comers, while Asian markets would continue to restrict access.

Under the ground rules for service agreements, GATT does not grant foreigners the right to compete in domestic markets unless that right is included in a country's GATT service schedules. This creates a disadvantage for American and European financial institutions, whose markets are open to foreign banks and brokers that meet the regulatory standards of domestic institutions.

By contrast, Asian countries generally impose special restrictions on foreign access to their financial markets. For example, Korea has an outright prohibition on foreigners selling mutual funds to local investors, while Japan requires foreign fund companies to go through a multi-year application process without clear objective criteria for approval. Most Asian countries limit the number of foreign banks and/or the scope of their local activities, while many Asian countries have only recently begun to allow the entry of foreign securities dealers on any conditions.

Given these existing disparities, Americans and Europeans can improve their relative market access through the GATT negotiations only if the Asians make substantial commitments to open up their financial markets to foreigners. However, such commitments to date have been very thin.

For example, Korea has even refused to guarantee that it would maintain the limited market access it currently affords to foreign banks and securities firms. Other Asian countries with significant exports are trying to position themselves as third world economies in need of protection for local financial markets. Singapore and Thailand, despite having advanced financial centers, exclude virtually all of their domestic banking sectors and the dealer portions of their local securities markets.

If the Asian commitments on financial services do not substantially improve, the United States would be locking in current disparities by signing the Uruguay Round. It would be prohibited from using access to its financial markets as a basis for reciprocal negotiations with Asian countries. Any special limits on Asian access to American financial markets would violate the most favored nation provision of GATT—a requirement to provide all signatories with the best market access afforded to any signatory. Thus, the most favored nation requirement would eliminate nearly all American leverage in bilateral negotiations with the Asians.

What should be done? If the Asian countries do not make reasonable commitments to open their financial markets within the next month, the United States and Europe should claim a most favored nation exemption for financial services. At the same time, they should agree to maintain the current openness of their financial markets between themselves.

The United States would then be free to adopt a reciprocity statute like the Fair Trade in Financial Services Act, which last year passed the Senate but not the House. Under this act, the Treasury would be required to evaluate whether American firms were being given fair access to Asian financial markets. If not, the United States could deny or condition licenses to Asian firms doing business in the American financial markets.

Although the United States negotiators are under intense international pressure to complete the Uruguay Round without taking major exceptions in any service sector, they should not allow Asia to become a "free rider" on the GATT agreement for financial services. By taking a most favored nation exemption for financial services, the United States would pave the way for tough bilateral negotiations based on true reciprocity—the only viable method for getting equal access to Asian financial markets.●

THE CHILDREN'S TELEVISION ACT OF 1990

● Mr. SIMON. Mr. President, we may be adults, but we still have a lot to learn from Captain Kangaroo. Bob Keeshan, better known as Captain Kangaroo, has entertained and educated our Nation's children for over 30 years. "Captain Kangaroo" had its debut in 1955 on CBS and stayed there for 3 decades before moving to public television, where it is still aired by 170 stations. Over the decades, "Captain Kangaroo" has set a standard of excellence to which today's children programs still aspire.

Recently, Mr. Keeshan testified before a Senate committee on television violence. He explained that the increasingly important role television plays in most households and the limited availability of children's programming, make television violence a more serious problem today than ever.

Television has become the national babysitter. Mr. Keeshan observed that "The most commonly exchanged words between a parent and child are not, 'Honey, I love you,' he said with a shake of his head, and a long loving look at his own daughter. "They are, 'Honey, I'm busy. Go watch television.'" This is not as good an idea as it used to be.

"Too much television is too violent, too commercial or too coarse," he complains. He blames this deterioration of broadcast programming on the deregulation of television in the 1980's. At that time, Mr. Keeshan maintains, the requirements that television stations demonstrate service to their communities were loosened, to the point of being meaningless.

Mr. Keeshan remembers the good old days of the 1950's, 1960's, and 1970's, when his greatest friends were the affiliated stations. "They used to have to talk, in the FCC logs, about what they were doing for children and for others in the community. It was taken seriously—a station could lose its license." Then came the 1980's, the era of deregulation. The administration sent a message to broadcasters, "That doesn't matter anymore. We don't want to interfere with the business of television."

The 1990 Children's Television Act promises to bring back an era of quality programming for our young audiences. Congress has mandated that stations regularly provide programming specifically for children. Mr. Keeshan is quick to warn, however, that without proper enforcement, this legislation won't mean much.

Mr. President, the recent interpretations of the act have been comical: Stations claiming that "The Jetsons" is educational because it teaches youngsters about space technology, or that "Family Feud" helps develop problem-solving skills in a family setting. Both Mr. Keeshan and myself are hopeful

that the Children's Television Act will be more potent under the Clinton administration.

Mr. Keeshan admits that there are quality programs available, especially those shown on PBS. He specifically mentioned "Mr. Rogers' Neighborhood." "Fred Rogers is a very good friend of mine," he said, "We have worked together for many years." Mr. Keeshan is also inspired by the choices brought by new technology. Cable has brought us the Disney channel, and the VCR enables parents to do their own programming. Unfortunately, he recognizes that cable TV and VCR's are not universally available. However, most households can receive a PBS station.

Mr. Keeshan concluded by reminding us, we need more than a change in legislation, we need a change in attitude. Society often talks about how important our children are, but we rarely do anything about it. If we had a change in attitude, we would not have to say to broadcasters: This is a special audience, and you have to treat it in a special way. It is vulnerable. You can't sell children the way you sell a 30-year-old audience. "If we had different attitudes, you wouldn't have to tell them that. But, we don't," he conceded. "Now, the only protection a child watching television has is a thinking parent."•

RECOGNITION FOR SCHOLARSHIP RECIPIENT MICHAEL J. DVORZNAK

• Mr. WOFFORD. Mr. President, I rise today to congratulate Michael J. Dvorznak, a senior at Kiski Area High School in Vanedergrift, PA for being recognized with the All American Award. AAU/Mars Milky Way High School All-American Award recognizes 8 students out of 13,000 for their exceptional scholastic, athletic and community service achievements. The scholarship is awarded in the amount of $10,000.

Michael is a National Honor Society member who currently ranks first in his class. In addition, he is a varsity member of the wrestling, tennis, and soccer teams.

He is also actively involved in many community service efforts. Among the most notable are Group Recycling in Pennsylvania, West Haven Nursing Home, and Camp Carol, a camp for mentally and physically handicapped children.

Again, I offer my congratulations and good wishes to Michael and his family, Principal Shaner and the faculty, staff, and students of Kiski Area High School.•

NATIONAL AGRICULTURE DAY

• Mr. LEAHY. Mr. President, I am pleased to support the passage of the National Agriculture Day resolution. I think it is important that we recognize the agricultural community's invaluable contributions in our daily lives.

Today's farmers, ranchers, and the entire agribusiness community face many challenges. They must deal with the uncertainties of nature, international markets, new technology, and a host of other diverse issues. Americans are fortunate to have such a group of hard-working people who are devoted to their jobs and successful in their fields.

In the last five decades, the number of working farms has decreased and the jobs have been reassigned. American agriculture has had to adjust to changing times in order to survive. Being the son or daughter of a farmer no longer served as a guarantee that you would continue the tradition.

The agriculture community, however, did not quit. To survive, American agriculture developed innovative research to increase yields, practiced more sustainable production practices, and improved marketing of their products. New processing and food safety methods were also developed to provide higher quality food to the American public. These advances and these successes secured American agriculture as one of our Nation's greatest strengths.

National Agriculture Day recognizes the significant contributions that farmers make throughout the year. This resolution acknowledges the hard work that is involved with providing our country with an abundant food supply. National Agriculture Day acknowledges the American breadbasket as the single largest exporter of food in the world, and a positive contributor to our national trade balance.

American agriculture is a source of wonderful diversity, from the small dairy farmer in Vermont, to the midwestern corn and cattle farm, to the California vegetable grower, to the High Plains cotton farm and to the southern rice farm. Agriculture provides jobs on and off the farm, in the field, and in the processing and marketing of the food. The American people benefit greatly from such fertile land, modern technology, and dedicated workers. It is imperative that this way of life be protected.

As the original sponsor of this year's National Agriculture Day resolution, I am extremely honored to be able to pay tribute to American agriculture, and dedicate March 20 as a day to pay thanks to those in agriculture who make thankless contributions to our lives every day.•

KILLING OUR CHILDREN

• Mr. SIMON. Mr. President, on January 3, 1993, the Chicago Tribune began a year-long series entitled, "Killing Our Children." Having seen the Chicago metropolitan area confront the deaths of 57 children under 14 during 1992, the Tribune has made the decision to track the death of every child, 14 and under, during the coming year. This is not a decision that the paper has made easily, and it is likely to cause some controversy.

But I applaud the Tribune for its decision. Far too often, the victims are young, innocent bystanders. We can no longer stand idly by as familial, and community violence escalates.

I ask that the article be printed in full in the RECORD.

The article follows:

[From the Chicago Tribune, Jan. 3, 1993]

KILLING OUR CHILDREN

(By Steve Johnson)

In 1992, 57 children age 14 or under were murdered in the Chicago area, felled by snipers, sacrificed by gangs, killed by parents. It was a year for burying the young.

No. 44 you know about. He was a 7-year-old killed by a sniper in October as he walked to school with his mother. His name was Dantrell Davis.

His murder shocked people. It shouldn't have.

Before his death, killers claimed 43 children under the age of 15 in Chicago and its suburbs in 1992. After his death, 13 more kids were slain.

Most of these children you know little about. Many made the journey from birth to a slab in the county morgue with little more notice from middle-class Chicago than the few lines they receive in the list accompanying this story. But like the classified advertisement that writing instructors call the shortest short story—"For sale: One pair baby shoes; never used"—each of those paragraphs describing the 57 deaths is its own short story.

Taken as a whole, the list is a tragic novel of epic proportions. It is a tale of a society that—in its inability to perform a fundamental duty, the protection of its most vulnerable members—is yielding its claim to the term "civilization."

Yes, we have literature, opera and laws governing the height of grass in suburban yards. But we also have the following, now occurring often enough to be characterized as "routine": a baby going almost literally from cradle to grave, allegedly shaken to death by his mother's boyfriend for the crime of crying too much; a 10-year-old killed by a stray bullet as his father parks the family car so the boy can play in the snow; an adolescent fatally shot while nursing a gunshot wound received the week before during gang cross-fire.

Just seven months before Dantrell Davis died, a schoolmate of his, 9-year-old Anthony Felton, was shot to death, also by sniper fire, also on blacktop adjacent to the boys' school.

Pick a few more: There were Raphael, Christopher and Danielle Turner, ages 5, 7 and 4, killed by arson. There was Taylor Briana Huggins, 7 weeks old, allegedly beaten to death by her 15-year-old father. There was 12-year-old Shamin Watters, stabbed to death in a fight with a 14-year-old girl.

Emily Hernandez, Tyjaun Cox, London Akins, Kevin McMillan, Holly Staker * * *

There is a crisis in Chicago and its suburbs and a crisis nationwide. In 1981, according to FBI statistics, there were 864 homicide victims age 14 and under in the United States. In 1991, the last year available, there were 1,075, an increase of 24 percent.

About half of that increase occurred among 10- to 14-year-olds. That rise is di-

rectly attributable to gunplay, a word whose whimsicality is both an affront to decency and a perfect description of how casually some use firearms. In 1981, guns killed 107 of the 214 homicide victims in that age group. Ten years later, they killed 209 out of 290.

Much of the rest of the increase occurred in children who had not reached their first birthday. In 1981, 182 kids younger that 1 were killed, compared with 304 a decade later.

"Homicide rates in this country were actually higher nine, 10 years ago," said Dr. Robert G. Froehlke, a epidemiologist with the Michigan Department of Public Health. "But if you look at it by age, homicide rates in children are the highest they've been for this century."

While the killing of children is mostly a city problem, because that is where the poverty that produces violence is most entrenched and concentrated, it is not exclusively so.

Of those 57 deaths in 1992, seven occurred in Chicago's suburbs and one victim was a suburban resident killed in Chicago. Among them were an 11-year-old baby-sitter raped and slain on the job in Waukegan, a 13-year-old schoolgirl shot on a street in Evanston, and twin babies smashed against a wall, allegedly by their father, in the family home in Riverside.

Two west suburban high schools, Oak Park-River Forest in Oak Park and Proviso West in Hillside, had their first gun incidents last fall. Earlier in the year, a pupil at Julian Junior High School in Oak Park brought a handgun from Julian to the suburb's Longfellow Elementary School, where he showed it off to 6th graders. This time, at least, the display did not end in death.

Laurie Dann shooting up the Hubbard Woods Elementary School in Winnetka in 1988 was the most publicized invasion of a classroom. But in Chicago, as in other large cities, schools are now so grotesquely accustomed to students carrying guns that metal detectors routinely guard the doors. Since September, the Chicago Police Department's school patrol unit has seized 93 guns in an around city schools.

The notion that a school is by definition a haven from street crime, an island of succor and sanity, has grown absurd.

Standing on a street corner, an apparent gang member was talking to a reporter last month after witnessing the second gang-related shooting in a week outside Lake View High School. The Chicago school stands at Ashland Avenue and Irving Park Road, in a neighborhood where some single-family homes sell for as much as they do in the North Shore suburbs.

"The only way you can (shoot someone) is in school," explained the student, a freshman. "Out here, there's too much going on * * * too many cars, too many cops."

Katherine Flanagan, principal of Manley High School in Chicago's impoverished North Lawndale neighborhood, has had two of her students gunned down this year away from school grounds.

"Now it's so easy for people to pull a trigger," she said. "It's just unreal how easy it is, and there's just no respect for another human being."

While the killing may occur mostly in poor areas, the attendant problems are everybody's. When human potential is cut short, we all lose. When it is dimmed by constant exposure to violence, we all lose.

Is that too sentimental for you? Try simple economics. An increase of violence means more criminals, more tax dollars to jail them (currently about $25,000 per inmate per year) and to build jails to hold them ($42 million is being spent on a new 450-bed jail in Du Page County).

Look at the picture on the front page of this newspaper. Taxpayers pay the salaries of that army of Cook County Hospital trauma unit specialists gathered around the teen, who died. Victims who live can cost taxpayers up to $2,350 a day for care at the hospital.

Or try fear. A culture growing more hostile will not confine itself to city borders. Criminals don't just have guns and attitude; they have cars.

"Our society is not set up in walled, medieval cities, and problems that occur in one segment of society, if they get bad enough, reach out and touch others," said Dr. Katherine Kaufer Christoffel, an attending pediatrician at Children's Memorial Hospital and an expert on violence against children.

Throughout this year, the Tribune will examine in detail every murder of a child 14 and under in Cook, Lake, Du Page, Will, McHenry and Kane Counties. The first purpose is to remember those who are so easily forgotten. The second is more complicated: to shine light on the problems that have brought us to this moment and to search for remedies.

The death toll will probably seem wearying at times, both to readers who have been touched by it personally and to those who feel they and their children are safely removed from the battleground. But it is important to remember that the dead kids could be anybody's. In interviews this past year, the families and friends of the victims invariably remembered the dead as having loved Nintendo, pets, pizza or Michael Jordan. Whose child does that not describe?

It is not a project entered into lightly. Experts in the field of violence against children, and those who try to combat it daily, were asked whether such a persistent drumbeat of reporting might seem more exploitative or inflammatory than elucidating. Most said this: When faced with a situation so obviously unacceptable, it is more important to try to do something than to sit back and find reasons not to.

Many among the experts consulted shared the opinion of Dr. Robert Kirschner, deputy chief medical examiner of Cook County. "I can't think of a good reason why not," Kirschner said. "People need to realize what an enormous toll all violent death and nonnatural death takes on our kids."

Isolating the murders of those children age 14 or younger has several advantages. For one thing, 14 is a cutoff point for one set of national murder statistics kept by the FBI, making it possible to compare numbers between cities and within cities from year to year.

For another, if we can't begin to understand how to keep the children from dying, how can we hope to keep them safe throughout their later teenage years and into adulthood?

This doesn't mean the paper will ignore the scores of older murder victims. For African-American teens and young men, especially, the numbers are appalling: In 1989, the homicide rate for white males age 15 to 24 was 12.8 per 100,000; for black males, it was 114.8, and gunshot wounds were the leading cause of death.

Nor will the paper ignore those children who die accidentally, like the 4-year-old Joliet girl killed last week by her 3-year-old brother wielding the family handgun.

But the hope is that focusing on the murder of the very youngest will help make the problem more vivid.

Remedies are elusive. All evidence suggests that the killing of children is the result of a web of social ills, each filament lending strength to its neighbors, each so strong on its own that it is overwhelming just to contemplate doing something to cut it.

Dozens of law enforcement officials, psychologists, child welfare authorities, teachers and kids themselves named the same problems time and again.

There are more guns available, and those guns are more lethal than ever before. There are guns on the streets of our cities that have no purpose except for taking human life. Mac 10s, Tech 9s and Uzis were among the more than 21,000 illegal firearms confiscated by the Chicago police last year; they are not made for hunting game.

There is a growing gap between wealthy people and poor people, and poverty is increasingly concentrated in specific neighborhoods.

More of the people who are having babies simply are not prepared—emotionally, financially, educationally—to do so. An increasing number of child abuse deaths are attributable to what experts have named "shaken baby syndrome." There are parents who simply don't understand this most basic fact about infants: They are too fragile to be shaken violently without risking death.

In the suburbs, in middle-class city neighborhoods and in their traditional low-income strongholds, street gangs are gaining influence, even as they are recruiting younger members to their bloody ranks. Their violence, often indiscriminate, is fueled mostly by the lust for the lucre that illegal drugs brings. And those drugs, especially highly addictive crack cocaine, contribute to a situation in which more babies are not safe around even their mothers.

Meanwhile, racism remains a stultifying part of the culture, meaning poor black and Hispanic children, especially, begin life practically destined to have lower self-esteem and lower expectations than their white peers, a fact that can translate into a feeling of being apart from the society at large and its rules.

Educators, researchers and residents of high-crime neighborhoods report that even very young children there increasingly use violence as the first option in settling disputes.

And children, no matter how innocent or how hard they may seem, cannot help but notice that something is not right in their lives.

This was demonstrated graphically in December when the Hyde Park Bank held an award ceremony to honor winners in its essay contest, "My Neighborhood."

An official of the bank imagined the contest producing paeans to playgrounds and other totems of childhood. It did—a very few. Mostly it tapped a geyser of bitterness and fear and despair.

A 6-year-old, Sean A.R. Williams, called his essay "Trapped in My House."

"The houses in my neighborhood look so pretty, but I don't see my neighborhood much," Williams intoned from the lectern, reading his essay aloud to the hundreds gathered in the bank. "I only go outside when I get in the car or go to school."

It was a theme echoed by almost all of these most gifted and motivated of South Side students. If their parents care, if they want their children to survive their surroundings, they turn them into virtual prisoners in their homes.

And even there, the children learn early to scurry away from windows when the gunfire starts.

Demetrius Jones, 13 years old and seemingly more world-weary than many four times his age, offered sentiments whose rawness belied his neat typewriting and perfect grammar.

"I feel as though the world and the people may come to an end," read his essay. "No one seems to care about the children of the future."

Asked later if he saw a solution, or even any hope, he was tight-lipped. "Really," he said, "nothing can be done."

For another demonstration of the effect of street violence, turn to Gatling's Funeral Home, the complex on the Far South Side that can count Dantrell Davis' family among its clients. There, another visitation for a boy was taking place one recent day.

Charles Dixon, a 15-year-old whose parents struggled in vain to save him from the streets, had been strangled, drugs and dice found by his body, according to police.

The kids in the front row of the funeral parlor, friends of Dixon's, had seen death before, but were curious still. They approached their friend's body in its open casket, pulling back his shirt collar to check for strangulation marks.

One mentioned that Dixon would be buried in West Virginia. This triggered an association, and another chimed in that "George's" body had been shipped to Arkansas. George was a friend who had been shot the week before Dixon was strangled.

A few moments later, one of the girls in the group picked up a program referring to another funeral in the complex.

Reading through it, she pointed and exclaimed, "That's Antoinetta's baby. Let's go see Antoinetta's baby."

The young people left the room containing one dead friend in search of the room displaying the dead baby of another friend.

The majority of children, of course, will survive to adulthood, no matter how challenging their situations. Pondering them, the question becomes: What kind of scars does an atmosphere of violence leave?

Research suggests that those children who are exposed to violence are more likely to commit violence. A kid scared by the guns around him feels that getting his own gun is the best way to protect himself and his family.

At a Christmas party for child psychiatric patients at Cook County Hospital, two girls who had survived a horrible attack on their family laughed at a clown who pretended to have a talking insect. But an aunt of the girls said the attack had left behind a residual "hatefulness" in them.

"They get evil, real mean," the aunt confided. "One, she destroys everything she gets her hands on."

Those who have studied children, growing up amid violence say their behavior changes. They have trouble sleeping, have repetitive nightmares, develop facial tics.

"In some respects, the experience of these kids probably more resembles the experience of children in war zones than in what we like to think of as normal society," said James Garbarino, president of Chicago's Erickson Institute for Advanced Study in Child Development. "In Mozambique, which is recognized as one of the most hideous civil wars on the planet, a survey found that 75 percent of kids had witnessed a killing. We have neighborhoods in Chicago where the figure is 35, 40 percent.

"It kind of blows away their idea of the world."

The killing of children occurs essentially in two ways: Parents or caretakers slay their infants, and adolescents die in street violence. Those in between who are killed are frequently bystanders.

Christoffel, of Children's Memorial, studied all reported homicides and violent deaths of children 14 and under in Cook County for the years 1977 to 1982. There were 230 homicides, an average of less than 40 per year, and 207 other violent deaths.

She found that 61 percent of the victims were male, a proportion that increased after the age of 1. Black children were 70 percent of the dead, although they were just 34 percent of the county's under-15 population in 1980. Gunshots caused almost half of the homicide deaths among 10- to 14-year-olds.

"Winter is more dangerous for younger children (who get beaten)," Christoffel wrote, "and summer for older children (who get shot)."

Where 10 or 20 years ago, a fight may have been settled with fists or even knives, now there is more likely to be a gun around.

In 1950, according to the federal Bureau of Alcohol, Tobacco and Firearms, there were 50 million non-military guns in the United States. By 1970, the number had doubled. Two decades later, it had doubled again, to 200 million.

The bureau estimates that there are 3 million "crime guns" on the streets, said Special Agent Jerry Singer, and guns are available for as little as $35.

The number of gunshot wounds treated at Children's last year was more than seven times the number in 1980.

"It basically comes down to the availability of firearms, a deadly weapon that's easy to use and kills quickly and efficiently," Christoffel said. "Although homicides in the style of the inner city are not widespread in middle-class suburban areas, guns are, and therefore suicides are and unintentional homicides are."

Meanwhile, said Christoffel, unemployment and low wages push city youth into the violent drug trade, while movies and television are delivering to boys a message that "they should shoot."

"So you have more guns lying around, you have job and social situations that call for their use, and then a strong media message that promotes its. That's a mass marketing technique, isn't it? That's what you'd do if the goal was to increase shooting."

Of the 57 Chicago-area child killings last year, 23 were by gunshot, while 26 were allegedly cases of infant abuse by parents or caretakers. In all but three of the abuse killings, a father, mother or boyfriend of the mother was charged. At least 14 of the deaths occurred in Chicago Housing Authority developments.

Studies by the beleaguered Illinois Department of Children and Family Services have found that child-abuse deaths tend to occur in low-income households headed by single parents, usually women, with little education, living in overcrowded households in neighborhoods where there are few social services.

Just one in seven of the deaths in one DCFS study happened in areas where the median household income was above $18,000.

While the number of child-abuse deaths has fluctuated from year to year but has not generally increased in Illinois, nationwide it has. In 1991, there were 1,383 such deaths, an increase of 10 percent over 1990 and 22 percent over 1985, said Deborah Daro, director of research for the National Committee for the Prevention of Child Abuse, headquartered in Chicago.

"We think we may be seeing children who live in the most violent situations at much greater risk than five or 10 years ago," Daro said. "The one thing we would have said then is, 'We can prevent fatalities.' And now I don't think people would say that."

Stories involving the DCFS are frequently about a director leaving, a cutback in staffing, or a child, now dead, whom the agency failed to protect, but private social-service agencies report they, too, are underfunded and overwhelmed.

"We had last summer a child—4 years old—walk in and say he watched his father kill somebody," recalled Karen Haigh, child development director for Chicago Commons, a multisite social-service agency in low-income areas. "And nobody knew how to handle it. And you know what? I'm going to be perfectly honest with you: We didn't handle it.

"We never dealt with it. All the shooting was going on the same day, and it was just too much."

One recent afternoon at the Elliott Donnelley Youth Center, 3947 S. Michigan Ave., a South Side haven of various games and activities, Cherita Mallett stopped her play for a time to talk about growing up in her neighborhood.

Cherita, with her shy manner and hair in multicolored ribbons, is the picture of childhood vulnerability. She talks in almost a whisper, but on occasion will blurt out something like, "I like to read because reading is FUN-damental."

But reading is not so easy to concentrate on, she said, when the shooting starts. When it begins, she said, "I run under my mother's skirt." When it awakens her, she worries for her older brother. She has warned him about gangs and has lectured her family that if they use drugs, she won't go to their funerals. She is 9 years old.

"Sometimes I think I won't see my 10th birthday if I'm out in the streets," Cherita said. "I would be kind of happy if they would stop the killing just a little bit."

EDITORS' NOTE.—A society can be fairly judged by how it treats its children. Caring for and guiding them to maturity is its most essential work, for they are the means by which it survives.

By this measure, something has gone terribly wrong in our own community. In appalling and unprecedented numbers, the children are being killed.

During the next year, the Tribune will not let the murder of a single child in our metropolitan area go unnoticed. It will document every one, both to accord the loss of each young life the significance it deserves and to see if detailed knowledge can bring an end to the escalation of violence against those we all have the greatest duty to protect.●

REFORM OF OUR IMMIGRATION CONTROL SYSTEM

● Mr. D'AMATO. Mr. President, I rise today to again address the enormous problem facing the United States in regard to immigration reform, especially the tidal wave of illegal immigrants who enter the country through JFK Airport in New York.

As I spoke on last Friday and again on Tuesday, it is absolutely necessary that the United States reform its immigration control system to prevent the abuses that result in the admission of aliens such as Sheik Omar Abdel Rahman and Mohammad Salemeh, who entered this country illegally and are

now charged with causing death and destruction. Salemeh has been charged with the bombing of the World Trade Center and Sheik Rahman is his spiritual mentor and the leader of a large terrorist organization wreaking havoc in Egypt today.

In relation to this horrendous problem, I would like to include the following article from the March 15, 1993, edition of the National Review, entitled "The New Jet Set."

Mr. President, I ask that the text of this article be included in the RECORD following my remarks.

The article follows:

THE NEW JET SET

(By Ira H. Mehlman)

It's a slow day at New York's John F. Kennedy International Airport. Mondays usually are. "You should be here on a Friday or a Saturday, that's when the action is," says one of the uniformed immigration inspectors who deal with up to 1,300 political-asylum claimants a month.

At the secondary inspection area in the East Wing of JFK's international Arrivals Building, a Liberian national is entering a claim for political asylum. He is traveling on a British passport which he purchased for $300 in Bangkok. The flight that he arrived on several hours earlier originated in Tokyo.

The man, about 30, has his lines well rehearsed: "My uncle was killed in an attempted coup. He was a soldier in [Samuel] Doe's army."

"What would happen if you would go back?" asks a skeptical officer from the Immigration and Naturalization Service.

"I'm afraid of the situation," replies the Liberian.

"What would happen?" insists the officer, a man who has clearly heard it all before.

"My father was killed," the Liberian states emphatically.

"When?"

A long pause. "February. February '92. My mother is in Ghana."

"When did she go?"

"I don't know."

"Did she go to Ghana alone?"

"I cannot say."

The interview drags on. Both men are going through the charade. The Liberian will be out on the street in a matter of hours—he knows it and so does the officer.

The political-asylum claimant left Liberia in 1988, stowing away by ship to Thailand. Two years later he moved on to Malaysia, then back to Bangkok, followed by a stint in Japan. Frustrated by poor earnings over the past four years, he's decided to try the land of opportunity: the United States.

He has a bogus passport, he's been out of Liberia for four years, but he knows the magic words that will get him past the harried officers at JFK. Once he utters "political asylum" his chances of remaining in the United States are 93 per cent.

We're being deluged. It's scandalous," complains the officer filling out the papers on this case. "In a matter of hours he's going to be walking out onto the street joining the ranks of the unemployed. We don't know anything about him. We don't know if he has AIDS. We don't know if he's a murderer." In most cases immigration authorities don't even find out a real name. It's a complaint heard over and over again from any of the 360 immigration officers who work America's most unguarded border—JFK.

Last year 14,688 excludable aliens attempted to enter the United States through JFK, nearly triple the number just two years earlier. Of these, 9,194, or 63 per cent, asked for political asylum. All but 428 of them had either fraudulent documents or no documents at all.

The deck is stacked in favor of the aliens. The detention center at JFK airport has a maximum capacity of 100 beds and only 12 to 15 vacancies for some 1,300 new excludable aliens every month. For someone contemplating illegal immigration it's difficult to find better odds. "During fiscal 1992, I detained only 1,169 of the 15,000 inadmissibles who came through JFK," says William Slattery, New York district director for the INS.

In total, only about 7 per cent of the inadmissible aliens who come in at JFK can be detained. The rest are simply released onto the street and asked to present themselves for a hearing at a future date. "We have no good, solid data" on how many ever show up for their hearings, says Duke Austin, an INS spokesman. "I know it sounds crazy, but it's just not collected." On background, other INS people concede that probably not more than 5 per cent of the airport asylum claimants are ever heard from again.

RECORDS, ANYONE?

Beginning last October, the INS started keeping computerized records of asylum seekers who come through Kennedy and other major airports. INS also no longer lets a claimant leave the airport before it has scheduled him for a preliminary hearing before an asylum judge. The first hearings under the new rules had been set for mid January, which means the INS will finally have some hard data about how many of these asylum seekers actually bother to show up. The new system won't make it any earlier to apprehend and deport the no-shows, but at least INS will know how many people are scramming the system.

China and the Asian subcontinent are the prime sources of jet-set asylum seekers, accounting for more than two-thirds of the applicants at JFK. The remainder are from an assortment of countries in Africa, the Middle East, Eastern Europe, and the Caribbean. Though U.S. immigration authorities in recent months have moved to crack down on abuses through fines against the airlines and pre-boarding inspection of passengers in countries such as India and Pakistan, it has done little to slow down the flow.

By and large, the "jet people" phenomenon is well-orchestrated. Through some of the asylum seekers have made it to JFK on their own, most, particularly those from China, India, and Pakistan, rely on professional smugglers. For a fee, generally in the $30,000 range, the smuggler provides them with an airline ticket, a high-quality phony passport (which, if it's not destroyed en route to the United States, is often secretly turned over to the smuggler on the last leg of the voyage to be recycled for the next group of "refugees"), and a tale of persecution.

Veteran immigration officers at JFK say they can easily identify the smuggling rings' local agents hanging around the International Arrivals terminal, waiting for their clients to finish up their paperwork and be on their way: they're the ones with the cellular telephones.

For some arrivals, particularly among the Pakistanis, the U.S. is not even the final objective—Canada is. Being admitted to Canada for political asylum is like hitting the lottery jackpot: the benefit package there—including welfare, education, resettlement assistance, and more—is worth considerably more than a similar package here. But Canada does a much better job of overseas screening of potential asylum-seekers, weeding out the ones with bad documents before they board Canada-bound planes—so Kennedy airport, it seems, has become a back door to Canada.

Regardless of whether the United States is the asylum-seeker's ultimate destination, or just a stop along the way, JFK's International Arrival terminal has become a virtual open door for anyone who pushes on it. The law says that anyone who requests political asylum in the U.S., regardless of the circumstances of his arrival, must be given a hearing. The system is so backed up that it takes a minimum of four months to bring a claimant before a judge for a preliminary hearing and 14 months before the actual facts of the claim are heard in court. A particularly sore point for the INS's Slattery is the length of time it can take to resolve even the most bogus asylum claim. The judges "have no standards they are supposed to meet, no work performance plans," he complains.

There are plans in the works to quadruple the number of detention spaces available at Kennedy by October of this year, but even that, Slattery points out, will be woefully inadequate. Even assuming that there isn't an increase in asylum claimants coming through JFK, 400 beds would still accommodate only 28 per cent of the current traffic.

If anyone is less pleased about the whole situation than the INS, it is the airlines. Each time someone shows up without proper documents, it costs the carrier $3,000 and the fine may soon be raised to $5,000. The U.S. Government fined the airlines $20 million last year for delivering undocumented or badly documented passengers to U.S. airports. Half of those fines were levied at JFK.

JET PEOPLE?

The West Wing of International Arrivals is a mirror image of the East Wing. In a room identical to the East Wing's inspection area sit three Indian nationals with white sheets of paper stapled to their jackets bearing their names (aliases, most likely) and the name of the airline on which they arrived. All three have arrived without passports, asking political asylum. Confident the minor inconvenience of the airport waiting room will soon be behind them, they offer no more information and claim not to speak English.

Sitting in a row in front of the Indians are five Chinese nationals who have also arrived without documents. "The Chinese don't have to claim political asylum," says a Chinese-speaking agent who is handling the paper work. "They're all protected by the executive order" issued after the Tiananmen Square massacre. Though the order technically applies only to Chinese who were present in the U.S. prior to June 4, 1989, in practice it makes it virtually impossible to deport any Chinese national.

The five in the JFK inspection room arrived after an odyssey that would make anyone looking to pad a frequent-flyer account green with envy. Hong Kong to Paris. Paris to Santo Domingo. Santo Domingo to New York. The more indirect the route, the Chinese-speaking officer relates, the less scrutiny the travelers and their documents receive. There were seven people on their flight from the Dominican Republic: none had a visa to enter the United States, but all were planning to stay.

One well-dressed thirty-year-old woman was seeking political asylum based on China's single-child-per-family rule. "I'm afraid of forced sterilization if I return to China," reads her Q&A sheet, as filled out by the immigration officer. Her first child remains be-

hind in China with the woman's mother. Her husband has been living in the U.S. since 1989. She doesn't know his address, but has a phone number for him in New Jersey.

A younger woman, in her late teens, stares shyly at the floor as she answers the questions posed in Chinese by Officer Catherine Bryant. The younger woman does not directly request asylum. When asked why she is here, she replies, "I heard life was better in the United States." She has no documents of her own, only the tattered business card of Bing Wong, a real-estate agent in the Elmhurst section of Queens who she describes vaguely as a distant relative.

Both women claim that they paid—or have promised to pay—the smuggler $30,000. The older woman's husband may have been able to come up with the cash to smuggle his wife into the U.S. The younger one will almost assuredly be working off her passage for many years to come in the sweatshops or restaurants of Chinatown. Many of the Chinese being smuggled into the United States wind up in a state of indentured servitude or as foot soldiers in the Chinese underworld.

A Ghanian woman is sitting alone in the front row of the waiting room, sobbing uncontrollably. She has just disembarked from a KLM flight from Amsterdam. The Dutch passport she is carrying is a valid one, but it does not belong to her. The photo on the document bears a resemblance to her, but on close inspection it is clearly the photo of another woman.

The sobbing woman has been living in the Netherlands for the past two years. She has not requested political asylum there because she has an aunt in New York whom she wishes to join. Upon arrival in New York she claims political persecution, for the first time.

OVERLOAD

Political asylum was first codified into U.S. law in 1980, when Congress passed sweeping reforms of the refugee laws. At the time it was estimated that about 5,000 people a year would seek asylum in the U.S. In recent years, the number of asylum requests has exploded to about 100,000 annually. Because the system was never designed to handle anything approaching that volume, and because every claim must get a hearing, it can take years for the process to play itself out.

The system's Achilles' heel is the right granted to each person who presses a claim for political asylum to have his case heard by a judge. The more people who apply, the more the system becomes bogged down. The more bogged down the system becomes, the more inviting it becomes for those filing bogus claims.

Jonathan Fuchs, who represents Iceland Air and other Europe-based carriers, would like to see summary exclusion for obvious abusers of the process, particularly aliens who flush their documents down the airplane toilet and then ask for political asylum. "Flushers should not get an automatic right to go see a judge. Just because they get their feet on the ground in the U.S. doesn't mean they're entitled to a hearing," he claims.

The airlines would much rather put these people on the next flight back to wherever it is they came from, and not have to pay the $3,000 fine for delivering an inadmissible alien to the U.S. "When someone arrives at JFK or any other international airport, they are at the functional equivalent of a border," and if they lack adequate documentation, they ought to be turned around and sent back, Fuchs contends.

Slattery would like to see summary exclusion for applicants who have entered by way of a third, presumably safe, country. The majority of claimants at JFK fall into this category. "If I have someone from China who has been through six or seven countries before finally asking for asylum when they hit JFK, I don't see why I should have to admit them," he says.

In striking contrast to your typical illegal alien who sneaks across the border, an asylum claimant who arrives at an airport without documents or with phony documents is almost always rewarded not only with admission to the U.S., but also with authorization to hold employment for as long as he can manage to clog the court's docket. With work authorization, the asylum abuser can obtain a Social Security card and a driver's license, the de-facto identifiers used by most Americans to prove eligibility for everything from welfare benefits to the right to vote.

Although the casual way in which we hand out these documents usually amounts to nothing more than the government aiding and abetting violation of our immigration laws, the consequences can be more serious. In the case of Mir Aimal Kansi, the man alleged to have gone on a shooting spree outside CIA headquarters last month, that laxness led to two deaths and three other people being wounded.

Kansi, a Pakistani citizen, entered the United States through JFK in February 1991 using what the INS now believes was a phony business visa (which he overstayed anyway). A year later, Kansi applied for political asylum at the INS office in Arlington, Virginia. Using the work-authorization document issued to him by the INS, Kansi was able to obtain a Social Security card and a Virginia driver's license. With that license Kansi had all the documentation he needed to purchase the AK-47 rifle he allegedly used to go on his rampage. Ironically, although nearly a year has passed between the time he filed his asylum petition and the date of the shootings, his case has not been scheduled for a hearing.

ENTER JFK

Even when the results are not quite so tragic, the abuse of asylum at JFK airport, though still relatively small, tends to have greater outrage value than other forms of illegal immigration. People sneaking past Border Patrol, even in much greater numbers, are less irritating than people who mock our humanitarianism. Senator Edward Kennedy, who chairs the Immigration and Refugee Affairs Subcommittee and who has traditionally worked for more liberal immigration and asylum laws, has dispatched two top aides, Jerry Tinker and Michael Meyers, to JFK to assess the situation.

After seeing the situation first-hand, Tinker, the subcommittee chief of staff, agrees that the asylum system is abused. Kennedy's subcommittee plans to hold hearings on the problem sometime in the spring. But Tinker believes the problem can be handled without requiring any new legislation. Additional detention facilities at the airport and quick hearings for asylum claimants, he believes, will deter people from abusing the system.

When Los Angeles International Airport boosted its detention capacity to 800 beds, asylum abuse all but stopped there. The addition of the extra detention space at LAX, however, also happened to coincide with the increase of asylum abuse at JFK. It seems likely, then, that simply building more detention facilities at JFK will not solve the problem; rather, it is likely to shift it to some other airport less well-equipped to hold inadmissible aliens.

While Tinker opposes summary exclusion as premature and unnecessary, he does favor a quick airport hearing for applicants and the immediate return of those whose claims have no merit. This is precisely what was being done in the case of Haitian boat people until last May. "While we agree this is a real problem that needs to be nipped in the bud, I would like to see them have a hearing and be put back on a plane. I don't think civil libertarians could have any problem with that," says Tinker.

But they do have a problem with it, says Arthur C. Helton, director of the Refugee Project for New York-based Lawyers Committee for Human rights. A quick airport hearing and a prompt return flight for those whose claims are deemed to be totally lacking in merit is wrong, in Helton's opinion. "There would have to be a more substantial procedure" to ensure that an asylum claimant is guaranteed the full protection of the law.

Helton accuses Senator Kennedy and others of political grandstanding. The phenomenon of airport asylum seekers is "a relatively discrete problem, but it's one that policy-makers are quite tempted to fix because it's relatively controllable," says Helton. He points out that compared to the more than 5,000 illegal aliens who sneak across the U.S.-Mexico border every day, the 15,000 a year who brazenly march through JFK are a mere drop in the ocean.

The ideal solution would be to screen out the abusers before they ever set foot on American soil. Under the law, a person must have physically reached the United States in order to press a claim of political asylum. A mobile corps of just ten agents moving from airport to airport to keep smugglers off-guard, says Slattery, would have a greater deterrence potential than the 360 agents currently at JFK.

OH, CANADA

The Canadian Immigration Service tested a similar program for six weeks beginning in November, and their preliminary findings indicate a reduction in the number of bogus asylum claimants turning up at Canadian airports. Pre-screening of passengers before they board flights to the U.S. can work, but it is a somewhat dicey proposition for the INS and the airlines.

Neither the U.S. Government nor the airlines want to appear to be hassling legitimate visitors. Adding to the problem is the matter of racial and ethnic sensitivities. Inevitably, somebody is going to raise an objection if the only passengers whose documents are closely scrutinized happen to be wearing turbans. Moreover, refugee-rights advocates have serious reservations about such screenings in countries whose human-rights records are suspect. Pulling someone with bad documents out of line in London or Paris is one thing. Pulling that person out of line in Karachi or Bombay is quite another matter, says Helton.

The number of people seeking political asylum will continue to grow as long as the odds of beating the system remain so high. Other democratic countries have concluded that the only way of dealing with asylum abuse is through summary exclusion of people they know are abusing the process. In some European countries, people who show up without documents, with phony documents, or who have traveled through other safe countries are simply presumed to be asylum abusers and are sent packing.

In a highly mobile world filled with billions of desperately poor people, some of the rules may have to be reconsidered. Our commitment to due process is admirable, but it has clearly become a magnet for abuse.

Under such circumstances, blind obeisance to the notion that every human being on planet earth is entitled to a day in an American court, no matter how frivolous the claim to asylum, can only undermine our ability to protect the truly persecuted.

Applying to come to the United States as an immigrant or a refugee can entail years of waiting. Entering illegally means risking apprehension. Going the political-asylum route, however, means no waiting your turn a set of documents entitling you to work, and a virtual assurance that you'll never be caught. The only thing that's surprising is that far more people haven't caught on.

Back in the East Wing of International Arrivals at JFK, a Dominican who has been sitting in the secondary inspection area for about 24 hours—the immigration officers suspect he is a criminal—gives up and asks to be sent home. He's destined to be one of the unlucky 7 percent who winds up in detention. A return flight home sounds like a much better option.

A victory of sorts—at least for now. "He'll try again," says the immigration officer as he begins filling out the inevitable forms.●

TRIBUTE TO SIRO DEGASPERIS

● Mr. MACK. Mr. President, I rise today to bring to the attention of my colleagues Mr. Siro DeGasperis, vice president of public affairs in charge of domestic and international operations for United Parcel Service. Siro is retiring this month after 32 years of service. After graduating from Bryant College with a bachelor of arts degree, Siro joined United Parcel Service as an operations clerk and driver. His varied career with the company has given him a background in business affairs, safety, human resources, engineering, and company operations.

Siro has been very active in the public affairs community serving as advisory board chairman for the Freight Services Improvement Conference, as an industry vice president for the American Trucking Association, and serving on the urban goods movement committee of the Transportation Research Board. He's also been associated with the Commercial Vehicle Safety Alliance and the Professional Truck Drivers Institute of America.

He is a director of the ATA Research Foundation and a member of the executive advisory committee of the National Industrial Transportation League. Siro's other association membership's include being on the advisory panel with the Agency Industry Council on the Transportation Research Consortium.

Siro served on the advisory committee with Vanderbilt Engineering Center for Transportation Operations and Research, and has worked closely with the Northwestern University Transportation School, MIT, and the University of Tennessee.

Mr. President, I know my colleagues here in the Senate join me in recognizing Siro's many accomplishments and in wishing him a happy and healthy retirement. I also welcome him to his new home in the great State of Florida.●

UNIVERSITY OF DELAWARE BASKETBALL TEAM WINS NORTH ATLANTIC CONFERENCE TITLE

● Mr. ROTH. Mr. President, last year at this time I rose to congratulate the University of Delaware's Fightin' Blue Hens mens' basketball team on their winning the North Atlantic Conference title and qualifying for the NCAA tournament for the first time in the school's history. Much to my delight, I can once again applaud the Hens after their exciting 67 to 64 victory Wednesday night over Drexel University, in the NAC finals in Philadelphia, which has placed them in the NCAA tournament for the second year in a row.

This group of young men has given our small State—known as the Small Wonder—a lot to be proud of. They have excelled and reached their goal, through their discipline, determination, and hard work. They have attracted a hearty following who faithfully come out to cheer the Blue Hens on to victory in their spectacular new home—the Bob Carpenter Sports and Convocation Center. Over the past 2 years, this team has helped bring out the best in our State and it has primed the spirit of the University of Delaware to two all time highs—with back-to-back, 20-plus victories.

Blue Hen spirit has taken flight, and as seasoned tournament veterans, the Hens will surely be a force to be reckoned with, for all of their competitors. As Blue Hens standouts Spencer Dunkley, Brian Pearl, Kevin Blackhurst, Anthony Wright, Coach Steve Steinwedel, and the rest of the squad prepare to do battle with the giants of college basketball, they can do so knowing that the entire State of Delaware is behind them 100 percent.

Of course, regardless of how they fare in the Big Dance, the Hen cagers are owed a great deal of thanks for all the excitement and the pleasure that they have provided over two remarkable seasons—and that will long be remembered by basketball fans in the First State.

I wish the Blue Hens all the best, as they begin down the long road to Cajun country—to New Orleans—for the final four. And I am making plans to cheer them on as they reach the top of the pecking order of college hoops.●

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN

● Mr. RIEGLE. Mr. President, I rise today in a continuing effort to put a face on America's health care crisis. The Caldwells of Burton, MI, are an example of the problems that occur when a family loses its health insurance because the primary wage earner loses his or her job. Ms. Caldwell wrote to me in December of last year to tell me about the problems her family is facing.

Sharin and her husband, Geoffrey, and their two children, Leslie, 6, and Tyler, 4, were insured through Geoffrey's employer, Oak Distributing. They paid $200 a year in premiums for complete family medical coverage, a dental coverage program, and an optical program covering up to $100 in services. Unfortunately, in April 1991, Geoffrey was injured on the job and was put on workman's compensation. A year later, Geoffrey was fired due to his extended leave of absence. His employer offered to continue the family's health care coverage but the Caldwells would have had to pay a premium of $600 a month, a cost they cannot afford to pay.

For the past 10 years, Sharin has been a nurse's aid at Clara Barton Terrace Nursing Home in Flint. She applied for insurance benefits at the beginning of her employment and was denied, because she has a condition similar to diabetes. The insurance company sees her as a risk, even though she does not use insulin and controls her condition through her diet. She has not reapplied because she knows she will be denied again.

Recently, Sharin contacted the department of social services and was denied Medicaid coverage. However, she was told that her family was eligible for a $1,300 a month spend-down. This means that her family must pay $1,300 each month in health care costs before Medicaid will pick up any health care expenses. She also contacted Blue Cross Blue Shield of Michigan and was told family coverage would cost $430 a month. Both options are too expensive for the Caldwells to afford.

Since their insurance was discontinued in April 1992 the entire family has needed medical treatment to one degree or another. The family has had to pay over $700 for routine office calls, lab visits, and prescription drugs. In addition, after she had a blackout 3 months ago Sharin had two EEG's which cost $100 apiece. Sharin also had warts removed from her foot by a dermatologist. She had started her treatment while she was covered under Geoffrey's insurance. After they lost their insurance coverage, she was forced to end the treatments because they could not afford the $150 fee for each treatment.

Geoffrey has had to stop his treatment for a hereditary eye condition. He has stated that the eye drops he needs cost too much money and that he has to make sacrifices somewhere and his medical needs are one area.

Sharin states that when Leslie or Tyler gets sick she delays seeking treatment and then utilizes a local free clinic. Leslie has a history of bronchitis and pneumonia which makes her very susceptible to infections. Sharin

knows this, but they only see their family doctor when it is absolutely necessary.

In a final attempt to obtain medical coverage for the children, Sharin inquired about the Caring Program for Children. This program provides basic health care and preventative services, at no cost, to uninsured Michigan children who meet the program requirements. The Caring Program for Children is funded through private donations and some Federal money. Currently, there is enough money available to fund approximately 1,500 children in Michigan. More than 300,000 children in my State need insurance coverage. The Caldwell children do not qualify for coverage because the family does not meet the income guidelines which require that the family income be at or below 185 percent of the Federal poverty level.

Sharin's greatest fear is that her daughter, Leslie, will have a reoccurrence of bronchitis and pneumonia that may require hospitalization. She keeps Leslie and Tyler from playing outside as much as possible so that they won't get sick, because she cannot afford to take them to the doctor. She is frustrated because she has investigated every avenue of health care coverage for her family with no luck. In her letter to me, she says "I have been trying to get some kind of health insurance but I have done nothing but hit dead ends."

Sharin and her family deserve to have access to affordable health care coverage to meet their needs. We need to enact national health care reform to make sure that families like the Caldwells have the health care coverage they need, regardless of their employment status.●

ORDERS FOR MONDAY, MARCH 15, 1993

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 3 p.m., Monday, March 15; that following the prayer the Journal of proceedings be deemed approved to date; that following the time for the two leaders there then will be a period for morning business not to extend beyond 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each; that at 3:30 p.m. the Senate then resume consideration of S. 460, the motor-voter bill.

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

RECESS UNTIL MONDAY, MARCH 15, 1993 AT 3 P.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:38 p.m., recessed until Monday, March 15, 1993, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 11, 1993:

DEPARTMENT OF JUSTICE

JANET RENO, OF FLORIDA, TO BE ATTORNEY GENERAL.

AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. NORA A. ASTAFAN [redacted] AIR FORCE RESERVE.
BRIG. GEN. GERALD F. CRUMP [redacted] AIR FORCE RESERVE.
BRIG. GEN. ESKER K. DAVIS [redacted] AIR FORCE RESERVE.
BRIG. GEN. DAVID C. GILDART [redacted] AIR FORCE RESERVE.
BRIG. GEN. WILLIAM F. WILLOUGHBY [redacted] AIR FORCE RESERVE.

To be brigadier general

COL. ALAN H. BRUCE, [redacted] AIR FORCE RESERVE.
COL. JIM L. FOLSOM, [redacted] AIR FORCE RESERVE.
COL. DANNY A. HOGAN, [redacted] AIR FORCE RESERVE.
COL. MICHAEL J. QUARNACCIO [redacted] AIR FORCE RESERVE.
COL. KEITH T. REILING [redacted] AIR FORCE RESERVE.
COL. JERRY SCOTT [redacted] AIR FORCE RESERVE.
COL. DONALD B. STOKES, [redacted] AIR FORCE RESERVE.
COL. JAMES L. TURNER [redacted] AIR FORCE RESERVE.
COL. RALPH M. UTTERBACK, JR. [redacted] AIR FORCE RESERVE.
COL. LEONARD D. WILLIAMS, [redacted] AIR FORCE RESERVE.
COL. ROBERT J. WINNER [redacted] AIR FORCE RESERVE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES J. SEAROCK, JR. [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593,8218,8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. EUGENE R. ANDREOTTI [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. MICHAEL J. BOWERS [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. MICHAEL S HALL [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. WALLACE D. HEGG [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. GENE A. KATKE [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. LAWRENCE A. MACIARIELLO [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. DAVID J. RIST [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. LARRY K. ARNOLD [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DOUGLAS BURNETT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. CHARLES D. BURNFIELD [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN T. BYRD [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN J. CRAWFORD, JR. [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. SAMUEL G. DEGENERES [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. GEORGE A. DEMERS [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. THOMAS H. DESPAIN [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. GARY W. FELSTEAD [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JON C. HEATON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. GARY E. KAISER [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEPHEN G. KEARNEY [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. EMMETT L. MCCUTCHIN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAMES MCINTOSH [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. MELVYN S. MONTANO, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD L. POWELL [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. THOMAS W. POWERS [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILBUR E. ROSE [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. VICTOR R. SCHWANBECK, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. EDWIN H. BURBA, JR. [redacted] U.S. ARMY.

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. JAMES H. GARNER [redacted]
BRIG. GEN. RONALD O. HARRISON [redacted]
BRIG. GEN. CHARLES M. HOOD, JR. [redacted]
BRIG. GEN. JAN P. WEPSTER [redacted]
BRIG. GEN. CLAYTON A. HOVDA [redacted]
BRIG. GEN. GEORGE W. SCHULER [redacted]

To be brigadier general

COL. SPESSARD BOATRIGHT [redacted]
COL. HENRY CASTILLON [redacted]
COL. CHARLES O. DILLARD [redacted]
COL. RICHARD S. POOLE [redacted]
COL. SHARON K. VANDER ZYL [redacted]
COL. WILLIAM B. WATSON [redacted]
COL. RICHARD O. CARTER [redacted]
COL. DAVID W. GAY [redacted]
COL. ALBEN N. HOPKINS [redacted]
COL. GEORGE J. BLYSAK [redacted]
COL. DENNIS FAGAN [redacted]
COL. TOMMY F. GRIER, JR. [redacted]
COL. RONALD K. KERWOOD [redacted]
COL. LEROY S. LEGOWIK [redacted]
COL. JOSEPH O. NIXON [redacted]
COL. JOHN W. HUBBARD [redacted]
COL. JERRY C. SMITHERS [redacted]
COL. PAUL G. WISLEY [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING MOLLY J HALL, AND ENDING DAVID A WAGIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING JOSEPH H. KWAN, AND ENDING JAMES V. SIMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING RICHARD V BRIGGS, JR. AND ENDING JUDITH A VOLPE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING MICHAEL A CUDDIHEE, AND ENDING LINDA N FOOTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING MAJ. JOSEPH J. BULMER, JR., [redacted] AND ENDING MAJ. FRANK D. WLATERSCHEID, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING MAJ. KATHLEEN M. AMBROSIA, [redacted] AND ENDING MAJ. GERALD M. SCHNEIDER, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING MAJ. FRANK S. ARNONE, [redacted] AND ENDING MAJ. RICHARD E. HORN, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING LARRY I CORMAN, AND ENDING RICHARD L STAHLMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING PAUL J AFFLECK, AND ENDING SHAWN M VARNEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING JERALD K AOKI, AND ENDING AGAPITO MIRANDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING RAYMOND B ABARCA, AND ENDING TODD C ZUMBEHL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

AIR FORCE NOMINATIONS BEGINNING THOMAS R CORBIT, AND ENDING JOHN F RIVERO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 7, 1993.

AIR FORCE NOMINATIONS BEGINNING BOBBY J ABERNATHY, AND ENDING ELIAS N SOURI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 7, 1993.

AIR FORCE NOMINATIONS BEGINNING MAJ. CHRISTOPHER J. COCHRAN [redacted] AND ENDING MAJ. DEBORAH L. HART [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

AIR FORCE NOMINATIONS BEGINNING SHYAMALI ARMSTRONG, AND ENDING CHRISTOPHER A WORLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1993.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JOHN A. BAUER, AND ENDING FRANK J. WHALEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING GERALD E. CROCKER, AND ENDING JOSEPH A. GAGLIARDI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING ALAN L. BLATTERMAN, AND ENDING PATRICIA A. GUSTAFSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING RICK BACCUS, AND ENDING PATRICIA D. PRECHTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING * CELSO G. BOLET, AND ENDING PATRICIA A. RIKLI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING JERRY L. ANDERSON, AND ENDING JAMES COFFEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING CHARLES E. BENSON, AND ENDING CLORINDA K. ZAWACKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING ALFONSO J. AHUJA, AND ENDING ROBERT SHAKESPEARE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING VERNON L. BENSON, AND ENDING JOSEPH B. EZHAYA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS OF MICHAEL F. MONIGAN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

MARINE CORPS NOMINATIONS BEGINNING ROBERT E. BRAITHWAITE, AND ENDING JAMES L. SACHTLEBEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

MARINE CORPS NOMINATIONS BEGINNING DAVID R. HARMAN, AND ENDING DENNIS K. STAVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

MARINE CORPS NOMINATIONS BEGINNING MARK S. BARNHART, AND ENDING CLARANCE L. WALLACE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

MARINE CORPS NOMINATIONS OF FREDERICK N. SHEPARD, WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

MARINE CORPS NOMINATIONS BEGINNING WILLIAM D. BEYDLER, AND ENDING ROBERT S. ZAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

IN THE NAVY

NAVY NOMINATION OF ROBERT ENRIQUE YBANEZ, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING JERRY WAYNE BEAN, AND ENDING BRUCE LEON HAWK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING DANNY WAYNE ARMSTRONG, AND ENDING WILLIAM EARL DANKA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING JOHN FRANCIS BROWN, AND ENDING JEAN ANN THURBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING MATTHEW BERNARD ALLMANN, AND ENDING WINSTON C. THOMAS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING ALAN DOUGLAS ARIEL, AND ENDING ROBERT LEE THOME, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING RUSSELL SCOTT ANDERSON, AND ENDING CYNTHIA LOUISE SPAID, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING JOSEPH F. BAGNICK, AND ENDING MICHAEL F. WOELKERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING SCOTT L. ACKLEY, AND ENDING KEVIN ROBERT SLATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 5, 1993.

NAVY NOMINATIONS BEGINNING DANIEL JOE FRANKEN, AND ENDING ROLAND MICHAEL FRANKLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS BEGINNING PAUL FREDERICK BLUNT, AND ENDING GEORGE ALLEN ZOLLA, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS BEGINNING GERALD ROGER BEAMAN, AND ENDING WINSTON D. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS OF DAVID MCDOWELL BROWN, WHICH WAS RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS BEGINNING KENT MICHAEL BAYER, AND ENDING MATTHEW JOHN FLAHERTY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS BEGINNING ROBERT WILLIAM ALCALA, AND ENDING JOHN RANDOLPH WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.

NAVY NOMINATIONS BEGINNING LEONARD R. KLEIN, AND ENDING ANDREW JACKSON MAY, III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JANUARY 19, 1993, AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 20, 1993.